Doc. # 4707

MEMORANDUM

TO: Boston Redevelopment Authority and
Stephen Coyle, Director

FROM: Susan Allen, Assistant Director for Development
Paul McCann, Executive Assistant to the Director

DATE: January 23, 1986

SUBJECT: Approval of Amended and Restated Sale and Construction Agreement for 500 Boylston Street in the Back Bay

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On January 10, 1985, the Boston Redevelopment Authority executed the Sale and Construction Agreement among the City of Boston, the Authority, New England Mutual Life Insurance Company ("NEL") and Gerald D. Hines Interests, Inc. ("GDHI") dated as of June 30, 1984, governing sale of the St. James Avenue Garage and adjacent public land and development of the 500 Boylston Street project in the Back Bay. This action was authorized by the Authority's vote of August 29, 1984. The Agreement was amended by a First Amendment thereto dated June 28, 1985. (As so amended, the Agreement is referred to therein as the "Original Agreement").

Since execution of the Original Agreement, the sale of the St. James Avenue Garage and adjacent public land to NEL has been consummated, NEL and GDHI have agreed to consider the possible redesign of the Eastern Component of the project, and a lender and equity partner has been found in connection with the Western Component of the project. As a result of these and other developments and because of requirements of the lender and equity partner for the Western Component, an Amended and Restated Sale and Construction Agreement has been negotiated with NEL and GDHI (the "Amended Agreement"). Although in most respects the Amended Agreement is essentially unchanged from the Original Agreement, several provisions have been altered in light of the new circumstances. The most significant of these changes are summarized below.

Sections 201 through 209 of the Original Agreement contained provisions governing conveyance of the St. James Avenue Garage and adjacent public land to NEL. Since the property has already been conveyed, and these provisions have no continuing relevance, the Amended Agreement has been simplified by deleting them.

Section 302 of the Original Agreement sets forth the Design Review Process to be undertaken by NEL and GDHI as developer of the project. While this Section remains in the Amended Agreement with certain minor revisions, a new section has been added as Section 303 which details the developer's commitment to consider the possible redesign of the Eastern Component of the project. In this section, the developer states its agreement to submit plans for the Eastern Component of the project to a "Design Advisory Panel" (to consist of representatives from the Authority, the developer, the Neighborhood Association of the Back Bay, the Boston Society of Architects, and a fifth member to be appointed by a majority of these four representatives) which will review these plans and consider alternative design criteria for the Eastern Component.

As a result of the comments and concerns of the proposed equity investor and lender for the Western Component of the project, the Dutch Institutional Holding Company its parent, Stichting Pensioenfonds Voor De Gezondheid, Geestelijke En Maatschappelijke Belangen ("PGGM") or subsidiaries, several provisions of the Original Agreement have been revised to clarify the separation of obligations and liabilities with respect to the Western and Eastern Components of the project. Although not a change in concept from the Original Agreement, the Amended Agreement contains revisions which make it clear that title considerations affecting one Component are independent from and do not affect another Component and that a default with respect to one Component is not a default with respect to the other Component and does not give rise to rights against the developer of the other Component. Notwithstanding the above, NEL and GDHI's obligations and liabilities with respect to the entire project are unaffected.

In summary, the Amended Agreement restates the essential obligations of NEL and GDHI under the Original Agreement while at the same time taking cognizance of the changed circumstances which render several provisions of the Original Agreement inapplicable today. As you know, the Authority granted final design approval to the Western Component of the 500 Boylston Street project on December 19, 1985. In order for NEL and GDHI to complete their arrangements with the lender and equity partner for the Western Component, and to receive funding for the Western Component, and consequently to permit the development to proceed, the Authority's approval of the Amended Agreement is required. Based upon the foregoing, we recommend that the Authority approve the Amended Agreement in accordance with the following vote.

VOTED: That in accordance with the votes of this Authority dated December 8, 1983 with accompanying terms and conditions and June 27, 1985; the Real Property Board dated December 9, 1983; the Public Facilities

Commission dated December 12, 1983, December 30, 1983, August 23, 1984, November 29, 1984 and June 28, 1985; the City Council dated April 18, 1984 which was deemed in force under St. 1948, c.452, s.17D (as appearing in St. 1951, c.376, s.1) on May 4, 1984; the City Council dated October 17, 1984 which was deemed in force under St. 1948, c.452, s.17D (as appearing in St. 1951, c.376, s.1) on October 19, 1984; the Public Improvement Commission dated January 12, 1984; and with the approval of the Mayor, when necessary; that the Director of the Authority is hereby authorized and empowered to execute on behalf of and in the name of the Authority, acting for itself and on behalf of the City of Boston (pursuant to powers delegated to the Authority by the Public Facilities Commission) an Amended and Restated Sale and Construction Agreement concerning the St. James Avenue Garage and adjacent public and private land substantially in the form attached hereto, and with such further modifications to clarify and amplify the terms and conditions of the Agreement to satisfy the requests of Dutch Institutional Holding Company, its parent and subsidiaries, or equity investors and lenders for the Western Component; and that the Director is hereby also authorized and empowered to take all actions necessary, appropriate and contemplated under and by the Amended And Restated Sale and Construction Agreement, relating to the development of the St. James Avenue Garage, adjacent public land and adjacent private land in accordance with said Agreement.

A: BLACKLINED CHANGES FROM SALE AND CONSTRUCTION AGREEMENT AS AMENDED BY FIRST AMENDMENT

Doe #4707

DRAFT 1/16/86

AMENDED AND RESTATED

SALE AND CONSTRUCTION AGREEMENT

among

CITY OF BOSTON,

BOSTON REDEVELOPMENT AUTHORITY,

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

and

GERALD D. HINES INTERESTS, INC.

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Exhibit S	-	Boston Redevelopment Authority Letter Approving 500 Boylston Street Schematic Design Submission
Exhibit T	-	List of Owners

AMENDED AND RESTATED

SALE AND CONSTRUCTION AGREEMENT

THIS AGREEMENT is made and entered into as of this ____ day of January, 1986, among the CITY OF BOSTON (the "City"), acting by and through the Public Facilities Commission, the BOSTON REDEVELOPMENT AUTHORITY, a public body politic and corporate organized under the laws of the Commonwealth of Massachusetts (the "Authority"), NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY, a mutual life insurance company ("NEL"), c/o Copley Real Estate Advisors, Inc., 535 Boylston Street, Boston, Massachusetts, and GERALD D. HINES INTERESTS, INC., a corporation organized under the laws of Texas ("Hines"), 535 Boylston Street, Boston, Massachusetts.

W I T N E S S E T H:

WHEREAS, the parties entered into a Sale and Construction Agreement dated as of June 30, 1984 and recorded with Suffolk Registry of Deeds in Book 11692, Page 1, governing the conveyance of certain property described therein (the "Property" as hereinafter more specifically defined) from the City to NEL and the development by NEL and Hines of improvements thereon and on adjacent parcels; which Sale and Construction Agreement was amended by a First Amendment thereto dated June 28, 1985 and recorded with said Deeds in Book 11692, Page 199 (as so amended, the "Original Agreement");

WHEREAS, the Property was conveyed by the City to NEL on June 28, 1985 pursuant to the Original Agreement;

WHEREAS, NEL and Hines desire to commence construction of said improvements and in furtherance thereof the Dutch Institutional Holding Company ("DIHC") has agreed to become a lender and equity partner in connection with the Western Component (as hereinafter defined);

WHEREAS, one of DIHC's conditions to becoming a lender and equity partner in connection with said Western Component is the making of certain modifications to the Original Agreement;

WHEREAS, Section 1302 of the Original Agreement provides that the Agreement may be amended only by an instrument in writing signed by the City, acting by and through the Authority, the Authority, NEL and Hines;

WHEREAS, Section 1306 of the Original Agreement provides that the Public Facilities Commission has delegated to the Authority all of its powers and functions to act under the Original Agreement following conveyance of the Property by the City to NEL; and

WHEREAS, the parties hereto desire to amend and restate the Original Agreement as hereinafter set forth.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, the City, acting by and through the Authority, the

Authority, NEL and Hines do hereby amend and restate the Original Agreement in its entirey as follows and, with the exception of the first paragraph of Section 1306 of the Original Agreement which shall remain in full force and effect, do hereby declare the Original Agreement null and void and of no further force and effect:

ARTICLE I

DEFINITIONS

Section 101: Defined Terms.

For the purpose of this Agreement, the following terms shall have the meanings, respectively, ascribed to them below:

a. "Architect" shall mean the firm of John Burgee Architects with Philip Johnson or such other firm as shall be substituted by the Developer with the prior written consent of the Authority.

b. "Authority" shall mean the Boston Redevelopment Authority.

c. "Change Order" shall mean any request for approval by the Authority, together with such approval, of a change to or modification or amendment of the Drawings and Specifications comprising a portion of the Contract Documents or of the completed Improvements, if the same would or might materially change the external appearance of the Improvements or any elements thereof open to public view or access including, without limitation,

elements such as public lobbies, arcades, open spaces or landscaping.

d. "Certificate of Completion" shall mean the instrument or certification so entitled required of the Authority under Section 305 for each Component of the Project.

e. "City" shall mean the City of Boston, Massachusetts, acting by and through its Public Facilities Commission.

f. "City Council Votes" shall mean those votes of the City Council of the City of Boston taken at meetings held on April 18, 1984 and October 17, 1984, and approved by the Mayor on April 27, 1984 and October 19, 1984, respectively, copies of which are attached hereto as Exhibit A and made a part hereof.

g. "Closing Date" shall mean the date established in Section 204 of this Agreement as the date for the sale and conveyance of the Property to NEL.

h. "Component" shall mean each of the "Western Component" and the "Eastern Component", the boundaries of which are shown on the site plan attached hereto as Exhibit B;

i. "Condition Date" shall mean the date on which Conditions (ii), (iii), (iv), (v), (vii), (viii), (ix), (x), (xiii) and (xiv) have been satisfied. Notwithstanding any other provision of this Agreement, in the event the Closing Date occurs prior to the Condition Date, the Condition Date shall survive the Closing Date;

provided, however, that in no event shall the Condition Date be later than two (2) years after the Closing Date;

j. "Conditions" shall mean the following conditions precedent to the obligation of NEL to purchase the Property, and, if applicable, the condition referred to in Section 204 (including in each case, as applicable, expiration of all applicable appeal periods, it being understood and agreed by the parties that no condition shall be deemed satisfied until the expiration of all applicable appeal periods without an appeal having been filed, and, if an appeal has been filed, the entry of a final judgment upholding the condition from which no further appeal may be taken), provided that the Developer proceeds in good faith and with all due diligence towards the satisfaction of each such condition; and it being acknowledged by the parties that notwithstanding the nonsatisfaction of certain of the Conditions NEL purchased the Property from the City on June 28, 1985:

(i) The Project Site shall have been designated a Planned Development Area by the Authority pursuant to Section 3-1A of the Boston Zoning Code ("Code") authorizing exceptions under Section 6A-1 of the Code from any provisions of the Code as may be required for the Project, including, without implied limitation, Sections 15-1 (Floor Area Ratio), 21-2 (Setback of Parapet), 24-1 (Loading Bays) and those use items of Section 8-7 listed in Exhibit C attached hereto and made a part hereof. The PDA

Development Plan (as hereinafter defined) which shall have been approved by the Authority shall include a floor area ratio of 9.5, shall not include any rear parapet setback requirements, shall reduce the front and side parapet setback requirements as required for the Project and shall provide for no more than five loading bays. The uses contemplated by such approved PDA Development Plan shall include office, general retail, public and tenant parking, restaurant, tenant cafeteria and athletic facility. The PDA Development Plan conforming to the requirements hereof and approved by the Authority on March 28, 1985 is attached hereto as Exhibit E.

(ii) The Authority shall have entered into the PDA Cooperation Agreement and submitted such for the Developer's execution in connection with the Authority's Design Review Process. The Cooperation Agreement conforming to the requirements hereof and executed by the Authority, NEL and Hines on June 28, 1985 is attached hereto as Exhibit D.

(iii) The Zoning Commission of the City shall have changed from a B-8 to a B-8-D zoning district the Project Site and the Mayor of the City shall have approved such rezoning, or, in the event the Mayor fails to act within fifteen (15) days after receipt of the rezoning, such rezoning shall have been deemed to have been approved, all in accordance with Section 3 of Chapter 665 of the Acts of 1956. The Zoning Commission and the Mayor

approved said zoning change on August 26, 1985 and August 27, 1985, respectively.

(iv) The Authority shall have approved a Development Impact Project Plan for the Project and the Authority shall have entered into an agreement setting forth Developer's responsibility for a Development Impact Project Exaction pursuant to Section 26-3 of the Code, and submitted such for the Developer's execution. The Development Impact Project Plan for the Project conforming to the requirements hereof and approved by the Authority on March 28, 1985 is attached hereto as Exhibit E and the agreement setting forth Developer's responsibility for a Development Impact Project Exaction conforming to the provisions hereof and executed by the Authority and NEL and Hines on June 28, 1985 is attached hereto as Exhibit F.

(v) The Authority shall have recommended to the City the final designation of the Developer as redeveloper of the Property and, if applicable, the Real Property Board and the Public Facilities Commission shall have confirmed such recommendation. The Authority recommended to the City said final designation on June 27, 1985 and the Public Facilities Commission confirmed such recommendation on June 28, 1985.

(vi) Deleted.

(vii) Developer shall have obtained from the Boston Air Pollution Control Commission a parking freeze permit for (a) the

Western Component for approximately 325 public parking spaces and an exemption from the parking freeze requirements for not less than 348 tenant parking spaces to be included in the Western Component, and (b) the Eastern Component for approximately 300 public parking spaces and an exemption from the parking freeze requirements for not less than 297 tenant parking spaces to be included in the Eastern Component, all in accordance with the Procedures and Criteria for Issuance of Parking Freeze Permits adopted under Massachusetts General Laws, Chapter 111, Section 31C.

(viii) The Authority shall have approved Developer's interim marketing plan for the public parking spaces to be provided in the Project (so long as such is consistent with the parking freeze permit and exemption from parking freeze requirements referred to in Section 101(j)(vii) and other requirements of the Boston Air Pollution Control Commission). The interim marketing plan approved by the Authority on December 19, 1985 is attached hereto as Exhibit H.

(ix) The Authority shall have approved a policy for hiring minority, women and Boston resident workers in connection with the construction of the Project. The policy for hiring minority, women and Boston resident workers in connection with the Project's construction approved by the Authority on December 19, 1985 is attached hereto as Exhibit H-1.

(x) If applicable, the Parks and Recreation Commission of the City shall have approved in writing the erection of the Project within one hundred feet of a park as required by Boston City Ordinance, Rev. Ord. 1961, c. 19, §11, City of Boston Code, Ordinances, Title 7, §110.

(xi) The Massachusetts Secretary of Environmental Affairs shall have issued a Certificate that the Final Environmental Impact Report required by the Secretary in accordance with his Certificate on Environmental Notification Form dated July 6, 1984 pertaining to the Project does adequately and properly comply with M.G.L. Ch. 30, §62-62H inclusive, and with the regulations implementing MEPA. The Massachusetts Secretary of Environmental Affairs issued said Certificate on April 4, 1985.

(xii) The Metropolitan District Commission or any successor thereto shall have issued a Sewer Connection Permit under M.G.L. c. 92, §1 et seq., and regulations promulgated thereunder.

(xiii) If applicable, the procedures set forth in M.G.L. Ch. 9, §26 and the regulations promulgated thereunder at 950 C.M.R. 71.00 et seq. with respect to the Massachusetts Historical Commission shall have been complied with so that the Project may proceed.

(xiv) No building comprising a portion of the Property shall have been designated a landmark by the Boston Landmarks Commission pursuant to Chapter 772 of the Acts of 1975.

k. "Construction Commencement Date" shall mean (i) no later than 8 months after the Condition Date for the Western Component and (ii) no later than 30 months after the commencement of Construction of the Western Component or 3 months after final design approval pursuant to the DAP Process set forth in Section 303 hereof, whichever is later, for the Eastern Component. If and to the extent that, from time to time, Developer demonstrates that it is unable, for reasons beyond its control (which may include, without limitation, strikes or unforeseen construction delays, unfavorable financing or construction markets, litigation and inability to obtain governmental approvals, permits, licenses, variances, exceptions, and in the case of the Eastern Component, inability of the Developer (using reasonable diligence including legal process) to cause present tenants of existing buildings on the Private Land to relocate therefrom, and the like) to begin construction of either Component on or before the applicable Construction Commencement Date, the Authority shall, from time to time, extend the Construction Commencement Date in question for a period which is reasonable under the circumstances, not to exceed 34 months in the aggregate, unless the Authority reasonably determines that Developer would, at such extended date, lack the

capacity to commence construction of the Component in question or to prosecute such construction to completion. (Developer hereby represents to the City and the Authority that it has reached agreements in principle with all present tenants of existing buildings on the Private Land to relocate therefrom.)

l. "Contractor" shall mean such general contractor or construction manager as may be selected by the Developer for each Component with the prior written consent of the Authority upon submission to the Authority of reasonable evidence that such contractor is capable of undertaking the work on such Component. The Developer shall not be required to submit any proposed or executed contract with any such general contractor or construction manager to the Authority. The Contractor for the Western Component has been approved by the Authority by the countersignature of Stephen Coyle, Director of the Authority, on December 19, 1985 of a letter dated December 11, 1985 from Kenneth S. Moczulski to Susan Allen of the Authority, a copy of which is attached hereto as Exhibit H-2.

m. "Covenant Expiration Date" shall mean the date, ascertained separately for each of the Components, which is the twentieth anniversary of the date of the Certificate of Completion for the Component in question; provided, however, that in the event that the Developer's application for final design approval for the Eastern Component is not approved in the DAP Process, the

Covenant Expiration Date for the Eastern Component shall be the date of final denial of said application by the Authority after exhaustion by Developer of the DAP Process as set forth in Section 303 hereof.

n. "DAP Process" shall mean the Design Advisory Panel process set forth in Section 303 hereof and in the Letter Agreement which has been established to consider the possible redesign of the Eastern Component.

o. "Deed" shall mean the instrument dated June 28, 1985 and recorded in the Suffolk County Registry of Deeds in Boston, Massachusetts, in Book 11691, Page 311, whereby the City conveyed the Property to NEL, a copy of which is attached as Exhibit I hereto and made a part hereof.

p. "Design Documentation" shall mean the several stages of documentation referred to in Section 302 which are to be prepared for the Developer by or through the Architect and to be submitted for approval by the Authority pursuant to the Design Review Process.

q. "Design Review Process" shall mean the procedures set forth in Exhibit I-1 attached hereto and made a part hereof, to be followed by the Developer in obtaining all approvals required hereunder of the Design Documentation.

r. "Designation Conditions" shall mean the terms and conditions for the making by the Authority of the Tentative

Designation, such conditions being set forth in a document dated December 8, 1983, entitled "Terms and Conditions for Tentative Developer Designation of St. James Avenue Garage Parcels", which is made a part hereof and attached hereto as Exhibit J as the same may be elaborated and clarified in the PDA Cooperation Agreement and the Design Review Process.

s. "Developer" shall mean the joint venture of NEL and Hines and only such of its successors and assigns in legal or beneficial interest to the Project Site and the Improvements as shall expressly be allowed hereunder. The Authority expressly allows the admission of DIHC to the development team for the Western Component, and upon the admission of DIHC to a joint venture with NEL and Hines for development of the Western Component, the term Developer, with respect to the Western Component, shall mean the joint venture of NEL, Hines and DIHC, and only such of its successors and assigns in legal or beneficial interest to the Project Site and the Improvements as shall expressly be allowed hereunder. Without implied limitation of the obligations of NEL and Hines under this Agreement, an approved Developer of one Component hereunder shall have no obligation or liability with respect to the other Component.

t. "Drawings and Specifications" shall mean the architectural and engineering drawings and specifications to be included in the Contract Documents of the Design Review Process.

u. "Eastern Component" shall mean that portion of the Improvements located on the easterly portion of the Project Site as shown on Exhibit B, containing approximately 540,000 square feet of office space, approximately 35,000 square feet of retail/commercial space and approximately 597 parking spaces of which 300 shall be public parking spaces, or otherwise in conformity with a design approved by the Authority in the Design Review Process or the DAP Process.

v. "Event of Default" shall mean the happening of one or more of the matters described as such in Section 901(a) of this Agreement.

w. "Improvements" shall mean the mixed-use development of office, retail/commercial and parking to be made or created by the Developer on or to the Project Site pursuant to the approved Design Documentation and any Change Orders.

x. "Letter Agreement" shall mean the agreement between the parties contained in a letter from NEL and Hines to the City and the Authority dated December 19, 1985, and acknowledged by the City and the Authority as of the same date which sets forth a process for considering the possible redesign of the Eastern Component and certain other matters. The Letter Agreement is attached hereto as Exhibit J-1.

y. "PDA Cooperation Agreement" shall mean that Agreement between the Developer and the Authority which sets forth certain agreements between the Developer and the Authority, a copy of which is attached hereto as Exhibit D.

z. "PDA/DIP Plan" shall mean the Plan attached hereto as Exhibit E and referred to in Section 101(j)(i) and Section 101(j)(iv) of this Agreement.

aa. "PFC Votes" shall mean those votes of the City of Boston, Public Facilities Commission, taken at meetings held on December 12, 1983, December 30, 1983, August 23, 1984, November 19, 1984, and June 28, 1985 and the same being set forth at length in certificates of Lori B. Goldin, Secretary of the Public Facilities Commission, and Paul D. Roche, Acting Secretary of the Public Facilities Commission, copies of which certificates are attached hereto as Exhibit K and made a part hereof.

bb. "Private Land" shall mean the land situated in Boston, Massachusetts, as described in Exhibit L attached hereto and made a part hereof.

cc. "Project" shall mean the development of the Improvements on the Project Site. The Project is divided into and shall include the Western Component and the Eastern Component.

dd. "Project Site" shall mean the Property and the Private Land, as shown in the Site Plan attached hereto as Exhibit M. The Project Site is divided into and shall include the Western

Component Site and the Eastern Component Site (and any reference in this Agreement to a portion of the Project Site shall be deemed to be a reference to the Western Component Site or the Eastern Component Site unless the context clearly indicates otherwise).

ℓee. "Property" shall mean the land and all improvements presently thereon situated in Boston, Massachusetts, as described in Exhibit N attached hereto and made a part hereof.

ℓff. "Real Property Board Votes" shall mean those votes of the City of Boston, Real Property Board, taken at a meeting held on December 9, 1983, the same being set forth at length in a Certificate of Richard Carter, Executive Secretary of the Real Property Board, a copy of which certificate is attached hereto as Exhibit O and made a part hereof.

ℓgg. "Tentative Designation" shall mean the vote of the Authority taken at a meeting held on December 8, 1983 in which a tentative designation was made of the Developer as the prospective purchaser and redeveloper of the Property, the same being set forth at length in a certificate of Kane Simonian, Secretary of the Authority, a copy of which is attached hereto as Exhibit P and made a part hereof.

ℓhh. "Western Component" shall mean that portion of the Improvements shown on the list of Drawings and Specifications attached hereto as Exhibit P-1 and located on the westerly portion

of the Project Site as shown in Exhibit B, containing approximately 642,000 square feet of office space, approximately 68,000 square feet of retail/commercial space and approximately 673 parking spaces of which 325 shall be public parking spaces.

ARTICLE II

TRANSFER OF THE PROPERTY AND PAYMENT THEREFOR

Section 201: Covenant of Sale.

(Deleted)

Section 202: Condition of Property to be Conveyed.

(Deleted)

Section 203: Purchase Price and Payment Therefor.

(Deleted)

Section 204: Time of Sale and Conveyance

(Deleted)

Section 205: Title and Instrument of Conveyance.

(Deleted)

Section 206: Federal Tax Stamps and Other Closing Costs.

(Deleted)

Section 207: Adjustments.

(Deleted)

Section 208: Default by City re: Conveyance.

(Deleted)

Section 209: Default by Developer or NEL prior to Delivery of Deed.

(Deleted)

Section 210: Period of NEL Ownership of the Project Site.

Notwithstanding any other provision of this Agreement until such time as NEL transfers the Project Site, or a portion thereof, as contemplated in Section 101(r) or as permitted in Section 501 (but only until such time), (i) all decisions to be made by Developer under this Agreement with respect to the Project Site or any portion thereof not so transferred shall be made by NEL; (ii) Hines hereby consents to all such decisions made by NEL with respect to the Project Site or any portion thereof not so transferred; and (iii) the City and the Authority shall be entitled to rely on all such decisions made by NEL with respect to the Project Site or any portion thereof not so transferred.

Section 211: Acknowledgment of Conveyance.

The parties hereto acknowledge that the Property has been conveyed to NEL by the City as required by Article II of the Original Agreement and that no party has any continuing rights to claim the benefit of any of the provisions of Sections 201 to 209 of the Original Agreement.

ARTICLE III

RESTRICTIONS AND CONTROL UPON DEVELOPMENT

Section 301: Restrictions on Use; Signage.

a. The Improvements to be constructed on the Project Site (including the Property) shall consist of two separate Components, the Western and Eastern Components as described in Section 101(ff)

and 101(t), respectively, which together shall contain approximately 1,200,000 square feet of office space, approximately 100,000 square feet of retail/commercial space, and a parking facility located on three levels below grade with approximately 1,000 to 1,270 parking spaces (which shall include at least 625 public parking spaces), all to be located on approximately 137,074 square feet of land for an overall Project FAR of 9.5, or shall otherwise be in conformity with a design for the Western Component approved in the Design Review Process and a design for the Eastern Component approved in the Design Review Process or the DAP Process. The Improvements shall not exceed a height of 330 feet as measured to the top of the parapet (except for certain decorative features and a rounded mechanical penthouse on each tower structure). The Improvements will be constructed sequentially as two separate Components. It is hereby understood and agreed that either of the Western or Eastern Components of the Project may be owned and/or financed independently of the other Component and therefore each Component must be considered as a separate lot capable of being conveyed as such. If commencement of construction of the Eastern Component is not to follow immediately upon completion of the Western Component, then ninety (90) days prior to the estimated completion date of the Western Component, NEL and Hines shall submit a proposed interim plan for design and use of the Eastern Component Site in the period prior

to commencement of construction of the Eastern Component within the time period set forth in this Agreement, subject to the written approval of the Authority, such plan to be implemented within a reasonable period of time after completion of the Western Component (it being the intent of this provision to ensure that the Eastern Component Site be used and maintained in a manner reasonably satisfactory to the parties hereto during any such interim period). This requirement as to an interim plan for design and use of the Eastern Component Site shall not be a condition of obtaining a Certificate of Completion for the Western Component.

b. No freestanding sign shall be erected on the Property without the approval of the Authority. No sign shall be erected or placed on the exterior of any Improvements, nor on any portion of any Improvement which is not enclosed within a building and not visible to the public from the outside of any Improvement, unless the character, location, design, size, shape, form and lighting of such sign shall have been approved by the Authority. Without limiting the scope of the Authority's review, it is understood and agreed by the parties that the nature and design of the Project requires that a variety of retail signage be provided. No sign shall be approved which does not meet the following standards: Signs may only be erected or placed upon the ground level or second level street facade of each store, if any, or other individual use. Signs shall be permitted on awnings or marquees, if

any, and on projections, if any, over the sidewalk provided that the Developer obtains the necessary permits and approvals for such. All signs shall be belt type. Flashing, illuminated signs, exposed neon signs or signs other than those relating to businesses on the site, if any, shall not be permitted. The Authority's approval or disapproval of any sign under this Section shall be made within ten (10) days of the Developer's submission of the proposed location, design, size, shape, form and lighting of such sign to the Authority.

c. The covenants in subsections (a) and (b) of this Section 301 and those in Articles IV, VI and XII shall be applied separately to each of the Western Component and the Eastern Component and, as so applied, shall be covenants running with the Western and Eastern Component Sites, respectively, and shall terminate with regard to each of the Western and Eastern Components on the Covenant Expiration Date for the Component in question. No violation of any such covenant applicable solely to the Eastern Component shall be considered a violation of any such covenant with respect to the Western Component, and vice versa.

Section 302: Improvements and Submission of Plans.

a. The Design Review Process sets forth the formal stages of submissions and approvals for the Design Documentation relating to the Improvements. All aspects of the Design Documentation shall conform to the Designation Conditions and refinements

thereof hereafter imposed by the Authority, subject to the DAP Process. The several phases of the Design Documentation (which as set forth in this Section 302 shall be applied separately to the Western and Eastern Components) are the Schematic Design, the Design Development, the Contract Documents (including Drawings and Specifications) and the Construction Inspection. In the event that any provision of the Design Review Process shall be inconsistent with any provision of this Agreement, then this Agreement shall govern. Notwithstanding the time periods for approvals of various stages of the Design Documentation set out below, Developer shall submit Drawings and Specifications for the Western Component and receive the approval of the Authority by the Construction Commencement Date for the Western Component and shall submit Drawings and Specifications for the Eastern Component and receive the approval of the Authority by the Construction Commencement Date for the Eastern Component.

b. It is the general policy of the Authority that all new buildings shall be designed and constructed to accommodate persons who are physically handicapped. In furtherance of this policy, and without limiting Developer's obligation to comply with all legal requirements applicable thereto, the Design Documentation (including the Drawings and Specifications) shall include provisions conforming insofar as practicable with the "American Standard Specifications for Making Buildings and Facilities

Accessible to and Useable by the Physically Handicapped" as published by the National Society for Crippled Children and Adults, Inc., which specifications, as amended from time to time, are hereby incorporated herein by reference. The Authority shall take into consideration the provisions and objectives of such specifications in its review of and action upon the Design Documentation (including Drawings and Specifications).

c. The Authority hereby acknowledges its receipt and approval of the "500 Boylston Street Schematic Design Submission" dated May 1, 1984 (including additional plans submitted on May 30, 1984 and September 11, 1984), which Schematic Design Submission approval is subject to the study by Developer of certain aspects of the project design for which the resolution of the St. James Avenue Civic Advisory Committee (the "CAC") of July 2, 1984 (the "CAC Resolution") requests further study and consideration by the Director of the Authority. The CAC Resolution is attached hereto and incorporated by reference as Exhibit R. The Authority's letter of Schematic Design Approval dated July 12, 1984 is attached hereto and incorporated by reference as Exhibit S. The Authority hereby acknowledges its receipt of the plans dated September 11, 1984 and included in the PDA Development Plan.

The Developer shall submit any additional information, options, revisions and/or refinements to those specific areas of the Schematic Design Submission pertinent to resolution of the

concerns contained in the CAC Resolution for which the Authority requires further study.

Upon review of the amended Schematic Design Submission, the Authority shall determine, with benefit of consultation with the CAC, whether satisfactory resolution has been achieved with respect to said areas of the Schematic Design. If so, the submission shall receive final Schematic Design Approval. Such studies shall not delay Developer from proceeding with the Design Review Process as also provided in the CAC Resolution.

d. Within ninety (90) days after the later to occur of (i) the latest date of execution of this Agreement and (ii) the date of the amended Schematic Design Submission, Developer shall submit to the Authority the Design Development for the Western Component as described in the Design Review Process. The Authority shall review the Design Development for conformity with the approved Schematic Design and this Agreement and the acceptability of design details not disclosed by prior approved submissions ("Design Details") and shall, within fifteen (15) days after receipt thereof, either approve the Design Development as conforming with the approved Schematic Design and this Agreement and providing acceptable Design Details or notify Developer in writing of disapproval, specifying the respects in which the Design Development does not conform with the approved Schematic

Design and this Agreement or in which the Design Details provided therein are unacceptable.

In the event of a disapproval, Developer shall, within fifteen (15) days after Developer receives the written notice of such disapproval, resubmit the Design Development altered so as to conform to the approved Schematic Design and this Agreement and to provide revised Design Details in those respects specified by the Authority as the grounds for disapproval. The resubmission shall be subject to the review and approval of the Authority in accordance with the procedure hereinabove provided for an original submission, until the Design Development shall be approved by the Authority.

If Developer receives no notification from the Authority of such disapproval within fifteen (15) days after submission of the Design Development or any correction thereof, as the case may be, such Design Development or corrected Design Development shall be deemed approved.

e. (Deleted)

f. Within one hundred and twenty (120) days after the Authority has approved or has been deemed to approve the Design Development, Developer shall submit to the Authority the Drawings and Specifications and other Contract Documents for the Western Component as described in the Design Review Process. The Authority shall review the Drawings and Specifications and other

Contract Documents for conformity with the approved Design Development and this Agreement and the acceptability of the Design Details provided for therein and shall, within fifteen (15) days after receipt thereof, either approve the Drawings and Specifications and other Contract Documents as conforming with the approved Design Development and this Agreement and providing acceptable Design Details or notify Developer in writing of disapproval, specifying the respects in which the Drawings and Specifications and other Contract Documents do not conform to the approved Design Development and this Agreement or in which the Design Details provided therein are unacceptable.

In the event of a disapproval, Developer shall, within fifteen (15) days after Developer receives the written notice of such disapproval, resubmit the Drawings and Specifications and other Contract Documents altered so as to conform to the approved Design Development and this Agreement and to provide revised Design Details in those respects specified by the Authority as the grounds for disapproval. The resubmission shall be subject to the review and approval of the Authority in accordance with the procedure hereinabove provided for an original submission, until the Drawings and Specifications and other Contract Documents shall be approved by the Authority.

If Developer receives no notification from the Authority of such disapproval within fifteen (15) days after submission of the

Drawings and Specifications and other Documents or any correction thereof, as the case may be, such Drawings and Specifications and other Contract Documents or corrected Drawings and Specifications and other corrected Contract Documents shall be deemed approved.

g. A separate Design Review Process shall be undertaken for the Eastern Component conforming to the process described above for the Western Component (except as otherwise provided below) with Developer being required to submit to the Authority the Design Development for the Eastern Component on or before six months prior to the Eastern Component Construction Commencement Date.

h. As part of the Design Review Process, the Authority shall require the Developer to take all practicable measures including, without limitation, all reasonable and economical measures consistent with the scope of the Component in question as presently conceived to mitigate damage to the environment identified in the environmental impact report to be prepared by the Developer for the Authority and the environmental review process associated therewith.

i. The Design Review Process may incorporate and allow changes, from time to time, from the approved Schematic Design (and subsequent elaborations thereof) in order to preserve the essential rights and obligations of the parties to the extent reasonably necessitated by changes of conditions applicable to the

Project Site including without limitation zoning or other legal requirements, and the like. Decisions made by the Authority after good faith reasonable attempts to preserve the essential rights and obligations of the parties shall be conclusive.

j. The Developer shall not apply for a foundation or building permit for the construction of the Improvements or any part thereof without the prior certification of the Authority that the work to be done as set forth in the permit application is in accordance with the Drawings and Specifications approved by the Authority in accordance with the requirements of this Agreement. In its construction of the Improvements, the Developer shall insure that there is no material deviation from such Drawings and Specifications in connection with the external appearance of the Improvements open to public view or access, except and only to the extent that Change Orders have been requested in writing and have been approved in writing by the Authority.

It is agreed that all Change Orders issued and implemented subsequent to approval by the Authority of Drawings and Specifications constitute a deviation from the approved Drawings and Specifications. The Developer agrees that no Change Order of any kind will be implemented unless such Change Order shall have been submitted to the Authority and shall thereafter have been approved or shall be deemed to have been approved by the Authority. The Authority shall approve or disapprove a Change

Order (i) within fifteen (15) days of its submission to the Authority, when such Change Order involves minor or routine changes, and (ii) within thirty (30) days, when such Change Order involves major changes.

In the event the Developer shall fail to comply with the foregoing requirements in proceeding with construction or modification of all or any part of the Improvements, the Authority may, within a reasonable time after discovery thereof by the Authority, direct in writing that the Developer modify or reconstruct such portion or portions of the Improvements as deviate from the approved Drawings and Specifications or any Change Order with respect thereto in order to bring them into conformance therewith. The Developer shall promptly comply with such a directive. In addition to any other remedies available to it under law or under this Agreement, the Authority may enforce the provisions of this Section 302 by an action in a court of appropriate jurisdiction to compel specific performance by the Developer of the Component in question.

k. As soon as practicable after the Developer determines that construction of the Eastern Component is not to commence by May 1, 1987 (such determination to be made no later than December 31, 1986), the Developer shall submit plans to the Authority with respect to the appearance and structure of the separating walls between the Western and Eastern Components. Such plans

shall be reviewed in accordance with the Design Review Procedure. Nothing stated herein shall be construed to relieve NEL and Hines of its obligation to construct the Eastern Component in accordance with the terms of this Agreement.

Notwithstanding any other provision of this Agreement, including without limitation, that contained in Section 1306 hereof, any reference in this Section 302 to the number of days within which any action must be taken by any party hereto shall mean calendar days.

1. The Authority hereby acknowleges Developer's compliance with subsections (a), (b), (c), (d), (f) and (h) hereof with respect to the Western Component. The Drawings and Specifications for the Western Component listed in Exhibit P-1 attached hereto have been given final approval by the Authority pursuant to the Design Review Process.

Section 303: Consideration of Possible Redesign of the Eastern Component.

a. Notwithstanding the approvals for the Eastern Component granted by the Authority, the City and the Commonwealth of Massachusetts, the Developer and the Authority agree to institute the process described hereinafter in this Section 303 with respect to the Eastern Component.

b. The Director of the Authority will establish a five-member advisory panel (the "Design Advisory Panel" or "DAP") to

suggest revised design criteria for the Eastern Component and to make observations and recommendations to the Developer and the Authority regarding the drawings for the Eastern Component prepared by the Developer in response to such revised design criteria. The DAP shall have no authority to review or to make observations or recommendations regarding the Western Component. The DAP will be comprised of one representative from each of the Authority, the Developer, the Neighborhood Association of the Back Bay and the Boston Society of Architects and a fifth member to be appointed no later than March 15, 1986 by a majority of the other four members, which majority shall include the Developer. In the event a representative of either or both of the Neighborhood Association of the Back Bay and the Boston Society of Architects fails or is unable to serve as a member of the DAP, the Authority and the Developer shall appoint an alternate member. After March 15, 1986, the Director of the Authority may, at any time, appoint a fifth member to the DAP, provided that if, at any time after March 15, 1986, the DAP includes at least four members, it shall perform its functions as set forth in this Agreement without a fifth member.

c. The DAP shall review the Eastern Component as set forth in the Design Development Drawing Submittal transmitted to the Authority on June 5, 1985 (the "Approved Eastern Component Plans") and shall, on or before May 15, 1986, make written observations

and recommendations to the Developer regarding the appropriateness of the Approved Eastern Component Plans for the Eastern Component Site. In the event the DAP recommends proceeding with the Approved Eastern Component Plans, the Developer shall promptly proceed with its application to the Authority for final design approval with respect to the Eastern Component.

d. In the event the DAP determines to proceed with a study of alternative design criteria for the Eastern Component, it shall, on or before July 15, 1986, make written observations and recommendations to the Developer regarding proposed revised design criteria for the Eastern Component. The components of such revised design criteria shall be:

1. Floor area ratio as defined in Section 2-1(20) of the Boston Zoning Code shall be 8.0 for the Eastern Component, provided that in no event shall gross floor area as defined in Section 2-1(21) of the Boston Zoning Code be less than 481,133 square feet for the Eastern Component.
2. Feasibility of retaining the Colton Building at 462 Boylston Street.
3. Building envelope restrictions for the Eastern Component such as height, yard and parapet setback restrictions.

4. Vehicular access and egress routes for the Eastern Component.

5. Suggested exterior building materials for the Eastern Component.

6. Alternate uses of the Eastern Component or portions thereof.

e. Within 120 days after receipt of the DAP's observations and recommendations regarding revised design criteria for the Eastern Component, the Developer shall determine whether to proceed with the preparation of plans conforming with the revised design criteria. In the event the Developer determines not to proceed with the preparation of such plans, it will promptly proceed with its application to the Authority for final design approval with respect to the Eastern Component. In the event the Developer determines to proceed with plans conforming with the revised design criteria, it shall follow a process identical to the Design Review Process set forth in Section 302 hereof with respect to such plans, provided that copies of all schematic design submissions to the Authority pursuant to such design Review Process shall simultaneously be delivered to the DAP. It is hereby understood and agreed that the DAP's role and function shall terminate upon approval by the Authority's Director of revised schematic design submissions for the Eastern Component. The DAP shall act solely in an advisory capacity in reviewing such

submissions and may, in its discretion, make written observations and recommendations to the Developer regarding the plans prepared to conform with the revised design criteria for the Eastern Component. Notwithstanding the foregoing, review by the DAP of the Developer's schematic design submissions pursuant to the Design Review Process shall not in any way extend the time periods set forth in Section 302 hereof for review of such submissions made in accordance with the Design Review Process, it being understood and agreed that the DAP's principal function shall be to suggest revised design criteria for the Eastern Component and that its secondary function shall be to comment upon schematic design submissions made in accordance with such criteria.

f. In the event the Developer elects to proceed with a design proposal for the Eastern Component other than that set forth on the Approved Eastern Component Plans, the Developer will apply to the Authority and the Zoning Commission of the City to amend the PDA/DIP Plan as necessary to permit the development of the Eastern Component in accordance with such design proposal. It is understood and agreed that the Director and the staff of the Authority shall submit a memorandum to the Authority's Board recommending approval of such amendment at the earliest possible date but in no event later than 30 days after the Developer's application therefor provided that the following requirements are satisfied:

1. Approval by the Authority's staff of the Schematic Design submission for the revised Eastern Component.

2. Preparation by the Developer of shadow, wind, traffic and subsurface studies for the revised Eastern Component (subsurface studies to be performed if the excavation for the revised Eastern Component exceeds 45 feet) which do not show an effect which is materially greater than that indicated by studies conducted for the Authority in connection with the Approved Eastern Component Plans.

If such amendment is approved, the Developer will apply to the Board of Appeal of the City for whatever zoning exceptions or conditional use permits as are deemed necessary or desirable by its counsel to permit the development of the Eastern Component in accordance with the revised drawings therefor.

g. If, for any reason whatsoever, including, without limitation, those set forth above, the Developer determines not to, or is unable to, proceed with revised plans for the Eastern Component, the Developer shall, no later than the time when it determines that it must obtain the approvals necessary to comply with the provisions of this Agreement and other documentation requiring the continuous and sequential development of the Western

and Eastern Components and the provisions of Section 6A-1 of the Boston Zoning Code regarding the duration of zoning exceptions, apply to the Authority for final design approval with respect to the Approved Eastern Component Plans and within 30 days thereafter, the Authority shall either grant or deny such final design approval.

h. In the event the Authority denies the Developer's application for final design approval for the Approved Eastern Component Plans as set forth in Section 303(g), the Developer shall apply for and the Authority shall fully cooperate with the Developer to grant within 30 days after receipt of such application, and to petition the Zoning Commission to grant within 15 days thereafter, an amendment to the PDA/DIP Plan (and all other documentation ancillary thereto) to eliminate the Eastern Component from such Plan and to restrict such Plan to the Western Component so that:

1. the approvals granted for the development, construction and use of the Western Component remain in full force and effect and unaffected by any failure or determination not to construct the Eastern Component in accordance with the PDA/DIP Plan; and

2. the Developer is free to develop the Eastern Component Site in accordance with the provisions of the Boston Zoning Code.

i. The Director and the staff of the Authority and the City agree to advise the Developer concerning, and will actively cooperate with and publicly support, the Developer's efforts to develop the Eastern Component Site and to assure the continued validity and enforceability of the permits and approvals granted for the Western Component Site in accordance with this Section 303, and in connection therewith, to actively cooperate with and publicly support, the Developer's efforts to obtain from the appropriate municipal and state bodies and agencies all such permits, licenses and approvals as may be necessary or desirable in order to carry out the development of the Eastern Component and the Western Component in the most expeditious and reasonable manner, including, without limitation, approval of an amendment to the PDA/DIP Plan by the Authority and the Boston Zoning Commission and granting of exceptions, conditional use permits or variances by the Board of Appeal.

It is the intention of the parties that the changes to the Approved Eastern Component Plans which may be made by the Developer as a result of the process set forth in this Section 303 shall not require the Developer to perform additional

environmental studies for any city or state agency except as set forth in Section 303(f)(2) hereof.

j. It is the understanding of the parties hereto that no change in the zoning requirements applicable to the Back Bay, Boylston Street, or any portion thereof, shall affect in any way either the Western Component or the Eastern Component.

k. The agreements of the Developer set forth in this Section 303 are expressly conditioned upon the active cooperation and public support by the City of the Developer's efforts to obtain from the appropriate municipal and state bodies and agencies all such permits, licenses and approvals which may be necessary or desirable in order to carry out the development of the Western Component in the most expeditious and reasonble manner. Such active cooperation and public support by the City will include assistance by the City in the Developer's pursuing of the following permits and approvals for the Western Component on or about the dates indicated (which dates are subject to the Developer's submission of the necessary applications in a timely manner):

1. Demolition permit for the Western Component from the Inspectional Services Department -- December 19, 1985.

2. Building permit for the Western Component from the Inspectional Services Department -- December 31, 1985.

3. Parking garage permit and fuel storage license for the Western Component from the Public Safety Commission, Committee on Licenses -- December 31, 1985.

4. Parking freeze permit for the Western Component from the Boston Air Pollution Control Comission -- January 30, 1986.

5. Approval of construction within 100 feet of a park from the Parks and Recreation Commission -- December 31, 1985.

6. Curb cut permit for the Western Component from the Public Works Department -- December 31, 1985.

Section 304: Time for Commencement and Completion of Improvements.

a. The Developer shall begin (and diligently pursue) demolition on the Western Component Site within six months after the Condition Date but no earlier than February 1, 1985. If and to the extent that, from time to time, Developer demonstrates that it is unable, for reasons beyond its control (which may include, without limitation, strikes or unforeseen delays, unfavorable financing or construction markets, litigation and inability to

obtain governmental approvals, permits, licenses, variances and exceptions), to begin demolition on the Western Component Site within 6 months after the Condition Date, the Authority shall, from time to time, extend the time for commencement of demolition for a period which is reasonable under the circumstances within the 34-month period set forth in Section 101(k) hereof, unless the Authority reasonably determines that Developer would, at such extended date, lack the capacity to commence such demolition. In all events, the Developer for the Western Component shall begin the construction of the Western Component, in accordance with the approved Drawings and Specifications therefor, not later than the Construction Commencement Date for the Western Component. The Developer for the Eastern Component shall begin the construction of the Eastern Component, in accordance with the Drawings and Specifications therefor, not later than the Construction Commencement Date for the Eastern Component; provided, however, that, if development of the Eastern Component is to proceed as contemplated hereunder, the Developer will not begin demolition of the buildings located at 462 Boylston Street (Colton Building) and 470 Boylston Street (Louis, Inc.) until approximately two months before the Developer intends to commence construction of the Eastern Component, it being the present intention of the parties to retain said buildings until the Developer is generally ready to commence construction of the Eastern Component. Without limiting

the foregoing, the parties hereby acknowledge and agree that demolition of the existing buildings located on the Western and Eastern Component Sites is an essential part of the Project and shall proceed in a manner which is consistent with the construction schedule for the Project.

b. The Developer of each Component shall diligently prosecute to completion the construction of the Improvements in such Component and shall substantially complete such construction within 27 months after the Construction Commencement Date for the Western Component and 24 months after the Construction Commencement Date for the Eastern Component (subject to unforeseen delays including, without limitation, delays for force majeure).

c. The Developer shall submit to the Authority for its approval a detailed estimated construction progress schedule prior to commencement of each Component in a format generally used in the construction of buildings. This schedule shall be revised as construction proceeds from time to time, but not less frequently than semi-annually, and whenever a delay of more than 60 days is anticipated, and such revisions shall promptly be submitted to the Authority. Any submission of a revised construction schedule shall be accompanied by a written report by the Developer citing any adjustments to the progress forecast, analyzing the causes thereof, and, where applicable, noting corrective efforts which shall be reasonably satisfactory to the Authority. Such work of

the Developer shall be subject to inspection by representatives of the Authority, and the Authority shall endeavor to notify the Developer promptly of any major defects directly observed by it. Upon receipt of any such notification, the Developer shall promptly undertake and proceed diligently to cure any such defects to the reasonable satisfaction of the Authority.

d. It is intended and agreed that the agreements and covenants contained in this Section 304 with respect to (i) the beginning and completion of the Western Component shall be covenants running with the Western Component Site, and (ii) the beginning and completion of the Eastern Component shall be covenants running with the Eastern Component Site. This subsection shall not, however, apply against a mortgagee permitted by this Agreement unless the mortgagee shall elect to complete as permitted in Section 503, in which case the extension provisions of that Section shall apply.

e. Prior to the sale and conveyance and delivery of possession of the Property, the Developer shall be permitted access thereto whenever and to the extent necessary to carry out the purposes of this Agreement, subject to existing rights of others. Developer agrees to indemnify, defend (with counsel of Developer's selection, but subject to approval of the Authority) and save harmless the City and Authority from and against all claims, costs and liabilities against the City or Authority

arising directly or indirectly out of such entry on the Property by Developer.

Section 305: When Improvements Completed.

The construction of each Component shall be deemed completed for the purposes of this Agreement when built substantially in accordance with the provisions of this Agreement, the PDA Development Plan, the PDA Cooperation Agreement, the approved Drawings and Specifications and Contract Documents, and any approved Change Orders with respect thereto, except for (i) items of work and adjustment of equipment and fixtures which can be completed after occupancy has been taken, i.e. so-called punchlist items, (ii) landscaping and other similar work which cannot then be completed because of climatic conditions and (iii) with respect to office, retail and other tenant space, items of work normally left for completion pursuant to the requirements of specific occupancy agreements such as construction of interior partitions and doors, distribution of electrical outlets and switches, location of ventilation ducts and returns, and placement of lighting fixtures and the installation of ceilings. In addition, with respect to the Western Component in the event that construction of the Eastern Component will not commence prior to December 31, 1988, such Western Component shall be deemed completed when the separating wall between the Western and Eastern Components is completed to an extent and in a manner reasonably satisfactory

to the Authority. The requirement that NEL and Hines submit a plan to the Authority for its approval for keeping the buildings located at 462 and 470 Boylston Street in active use until approximately two months before the Developer intends to commence construction of the Eastern Component shall not be a condition of the issuance of a Certificate of Completion for the Western Component.

If the Authority issues a Certificate of Completion prior to completion of the work described in clauses (i) and (ii) above and any and all other work which, in the reasonable opinion of the Authority, should be completed prior to the issuance of a Certificate of Completion, then, the Developer shall deposit with the Authority, or, if required by any mortgagee, with the holder of the first mortgage on the Project Site or portion thereof, as applicable, pursuant to an escrow or holdback agreement approved by the Authority, such approval not be unreasonably withheld or delayed, as security for the completion of such work, an amount which, in the reasonable opinion of the Authority, would cover the cost of such completion, such amount to be returned to Developer upon the completion of such work (to the reasonable satisfaction of the Authority) except to the extent such amount is applied to the completion of such work as provided hereinafter. The Authority agrees not unreasonably to disagree with the decisions of any mortgagee on these issues. Said deposit, if deposited with

the Authority, shall be in cash, certified check, bond, letter of credit, or by other similar security, the form of such security to be subject to the approval of the Authority. The deposit shall be delivered simultaneously with the issuance of the Certificate of Completion. If such work is not so completed to the reasonable satisfaction of the Authority, within a reasonable time after the issuance of such Certificate of Completion, and in any event within one (1) year of such issuance, then the Authority shall deliver such deposit to the holder of any such mortgage, who shall apply such deposit to completion of the outstanding work to the satisfaction of the Authority, it being understood that the mortgagee shall not be required to apply any of its own funds thereto. If the Authority issues a Certificate of Completion prior to completion of the work described in clause (iii) above, Developer agrees to complete such work within a reasonable time after the leasing of such tenant space. The Authority will act reasonably and in good faith where its rights hereunder correspond to similar rights of the mortgagee, but the Authority may act independently of the mortgagee if in the Authority's reasonable judgment the rights of both cannot be accommodated.

Periodically during construction of the Improvements, upon the reasonable prior written request of Developer or any mortgagee that it wishes a determination from the Authority as to the compliance of a particular aspect of construction with the

provisions of this Agreement, the PDA Development Plan, the PDA Cooperation Agreement, the Design Review Process, the approved Drawings and Specifications, and any approved Change Order with respect thereto, the Authority shall consult with the Developer, and any mortgagee who has requested such determination, and, to the extent that the Authority can reasonably make such determination and to the extent that the Developer or any such mortgagee provides information reasonably requested by the Authority in connection with such determination, the Authority shall make a determination with respect to the compliance of such aspect of construction with such provisions and deliver to the Developer and any such mortgagee a written statement setting forth its determination ("Statement of Compliance"). To the extent that any information furnished to the Authority by Developer as provided above is accurate and complete, the Developer and any mortgagee shall be entitled to rely upon such statement and such statement shall be conclusive with respect to the matters discussed therein.

Promptly after substantial completion of each Component substantially in accordance with the requirements of this Agreement, the Authority will furnish the Developer and any mortgagee of such Component with a separate Certificate of Completion for such Component so certifying. Such certification by the Authority shall be conclusive determination of satisfaction and termination

of the agreements and covenants in this Agreement with respect to the obligations of the Developer to construct such Component, except for aspects thereof to be completed thereafter, which aspects shall be detailed in a separate letter from the Authority.

Developer agrees that the Authority shall be under no obligation to issue a Certificate of Completion until such time as the Authority has had a reasonable opportunity to inspect the Improvements constructed pursuant to the provisions of this Agreement, the PDA Cooperation Agreement, the PDA Development Plan and the Drawings and Specifications and the other Contract Documents (as modified by any Change Order approved by the Authority) provided, however, that the Authority shall not be required to make an inspection hereunder unless the Developer or any mortgagee has requested by written notice to the Authority that it issue a Certificate of Completion.

The Certificate of Completion provided for in this Section shall be in such form as will enable recordation in the Registry of Deeds for Suffolk County, Commonwealth of Massachusetts. If the Authority shall refuse or fail to provide such Certificate of Completion in accordance with the provisions of this Section, the Authority shall, within thirty (30) days after receipt by the Authority of a written request by the Developer or any mortgagee, provide the Developer and any such mortgagee with a written statement, indicating in adequate detail in what respects the

Developer has failed substantially to complete construction of the particular Component in accordance with the provisions of this Agreement or is otherwise in default and what measures or acts will be necessary, in the reasonable opinion of the Authority, for the Developer to take or perform in order to obtain such Certificate of Completion. The Authority shall not withhold a Certificate of Completion for any aspect of construction stated by the Authority to be in compliance with the approved Drawings and Specifications in a Statement of Compliance. If the Authority shall refuse or fail to provide the Developer and any such mortgagee with such a written statement within 30 days of a request therefor by the Developer or any such mortgagee, the instrument certifying substantial completion of the Component in question shall be deemed to have been issued and the Developer and any such mortgagee shall be entitled to obtain specific performance ordering such instrument to issue.

Section 306: Prompt Payment of Obligations.

Without limiting the right of Developer to withhold payment of any monies which Developer is contesting or disputing in good faith, the Developer shall make, or cause to be made, prompt payment of all monies due and legally owing to all persons, firms and corporations doing any work, furnishing any materials or supplies or renting any equipment to the Developer or any of its contractors or subcontractors in connection with the development,

construction, furnishing, repair or reconstruction of any of the Improvements. Neither this provision, nor any other provision of this Agreement shall be construed to create rights in anyone who is not a party to this Agreement.

ARTICLE IV

CHANGES AND ALTERATIONS

Section 401: Changes after Completion.

After each Component required by this Agreement to be constructed on the Project Site has been completed in accordance with this Agreement and prior to the Covenant Expiration Date for the Component in question, no person shall, without the prior written approval of the Authority, reconstruct, demolish, subtract therefrom, make any additions thereto or extensions thereof, or permanently change the materials, design, dimensions, or color thereof, if such reconstruction, demolition, subtraction, addition, extension or change would affect in any material way the external appearance of public lobbies, arcades, open spaces or landscaping, or the pedestrian walkways from Berkeley and Clarendon Streets through the Project, or courtyards visible from the exterior of the Project, or the external appearance of any building (including roof and penthouse) or other external Improvements except that the restoration of the Improvements after a casualty or eminent domain taking to the condition required to exist prior to such event shall not require approval of the Authority.

Section 402: Procedures for Changes.

a. In requesting such approval or confirmation of compliance with Section 401, there shall be submitted to the Authority for its approval such plans, specifications, and other materials for the proposed work as are required by the Design Review Process, all within such reasonable time limits as the Authority shall require therefor.

b. If the Authority shall consent to any alteration, addition, change or modification requiring such consent under Section 401 hereof, the same shall be accomplished in compliance with these requirements:

(i) No work shall be undertaken until there shall have been produced and paid for, or caused to be paid for, so far as the same may be required from time to time, all governmental permits and authorizations of the various governmental agencies having jurisdiction.

The Authority agrees to join in the application for such permits or authorizations, whenever such action is necessary, but at the Developer's sole cost and expense.

(ii) No work shall be undertaken until there shall have been presented evidence reasonably acceptable to the Authority of Developer's ability to pay for the cost thereof.

Section 403: Failure to Comply with Change Requirements.

If there shall be a failure to comply with the foregoing requirements of this Article IV, the Authority may, without limiting other remedies available to it, direct in writing that any work done without the prior written approval of the Authority be modified, reconstructed or removed. Such a directive shall promptly be complied with and no further work shall be done until such directive is satisfied. The Authority shall not exercise the remedy described in this Section if and to the extent that the Developer has proceeded in good faith in construction and reasonably demonstrates that it is more likely than not that the Authority would have approved the work in question had it been submitted for approval pursuant to Section 402.

ARTICLE V

TRANSFER AND MORTGAGE OF DEVELOPER'S INTEREST

Section 501: General Terms Relating to Transfer of Interest in Property by Developer.

a. After delivery of the Deed and prior to the completion of the construction of each Component in accordance with this Agreement, no legal or beneficial interest in such Component (which term shall be deemed to include successors in interest of such interest) shall be transferred, or caused or suffered to be transferred, which would directly or indirectly change the legal or beneficial ownership interests in the Developer or the control

of the Developer from that existing on the date hereof (which owners are presently set out in Exhibit T attached hereto and made a part hereof), except an involuntary transfer caused by the death or incapacity of any such party, or transfer of interests in connection with a bona fide financing transaction (including, but not limited to, in the case of the Western Component, transfer to an entity controlled by NEL, Hines and DIHC) so long as NEL and Hines remain the sole managing and controlling partners (or, in the case of the Western Component, NEL, Hines and DIHC), or except as provided in Section 502 hereof, without the written approval of the Authority; nor without such written approval shall there be any other change in the ownership of such interests or in the relative distribution thereof or change in identity of the parties in control, or in the degree of control of the Developer, by any other methods or means, provided, however, that such approval shall not be required for changes aggregating no more than ten percent (10%) in beneficial interest in the Developer. (NEL and Hines hereby represent to the City and the Authority that when the Developer entity is formed, they (or they and DIHC) will be the sole managing and controlling partners). The Developer shall advise the Authority of any and all proposed changes in such interests and shall in addition furnish the Authority with an up-to-date list of all present and proposed new owners thereof whenever such changes aggregate more than ten percent (10%)

beneficial interest in the Developer, and with any other information relating to such proposed change which the Authority shall reasonably require. Once a Certificate of Completion has been issued hereunder for a particular Component, there shall be no limitation imposed hereby relative to the legal or beneficial ownership of the Component in question.

b. Developer may itself convey or cause the Authority to convey each of the Components to separate entities which are affiliates of Developer and which otherwise comply with the ownership requirements hereof originally imposed on Developer, provided that, as a condition precedent, the Developer shall notify the Authority in writing of the proposed transfer of ownership and the Director of the Authority shall deliver a written Certification that such entities comply with the ownership requirements hereof, and further provided that each entity expressly assumes and agrees to be bound by this Agreement, to the extent the same applies to the Component in question. Except as provided above, the Developer agrees that it will not, after delivery of the Deed and prior to the completion of the construction of each Component as required by this Agreement, allow any liens or encumbrances to exist (except those existing on the Closing Date and except any mortgages (whether or not from a partner in the Developer or any affiliate thereof) given to secure, or leasehold interests created in connection with, the

construction and permanent financing for the Component in question and cross easements and the like contemplated hereby (each of which cross easements, unless expressly permitted hereunder, shall be subject to the prior approval of the Authority, which approval or disapproval shall be made within thirty (30) days of the submission thereof to the Authority)) or make or suffer to be made any assignment, lease (which shall not preclude bona fide occupancy leases, including an occupancy lease to NEL), or any other manner of transfer of its interest in the Western Component Site or Eastern Component Site, as the case may be, or in this Agreement, except as provided in Section 502, unless it shall have complied with the following covenants, which shall be covenants that run with the land:

1. The transferee or transferees shall have been approved as such in writing by the Authority.
2. The transferee or transferees, by valid instrument in writing, satisfactory to the Authority, shall have expressly assumed for themselves and their successors and assigns, and directly to and for the benefit of the Authority, all obligations of any person or persons, including the Developer, to begin, complete, and/or maintain and operate the Improvements, or the Western or Eastern Component, as applicable, and all obligations of the Developer

provided for in this Agreement with respect to the Improvements, or the Western or Eastern Component, as applicable. The fact that any transferee of, or any other successor in interest whatsoever to the Project Site, or portion thereof, shall, for whatever reason, not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Authority) relieve or except such transferee or successor of or from obligations, conditions, or restrictions, or deprive or limit the Authority of or with respect to any rights or limitations or controls with respect to the Project Site, or portion thereof, or the construction of the Improvements. It is the intent of this, together with other provisions of this Agreement, to insure (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) that no transfer of or change with respect to ownership, possession, or control, shall operate legally or practically to deprive or limit the Authority of or with respect to any rights or

remedies or controls provided in or resulting from this Agreement with respect to the Project Site, or portion thereof, and the construction of the Improvements, or the Western or Eastern Component, that the Authority would have had there been no such transfer or change. In the event of any such transfer without such assumption of obligations, the Developer shall pay to the Authority the expenses and costs of any actions or proceedings instituted to enforce all such obligations, conditions, and restrictions, and all of the Authority's said rights, remedies, and controls as against such transferee. Therefore, in the absence of a specific written agreement by the Authority to the contrary, no such transfer or approval thereof by the Authority shall be deemed to relieve the Developer or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Improvements from any of its obligations with respect thereto.

3. There has been submitted to the Authority for review, and the Authority has approved, all instruments and other legal documents involved in effecting the proposed transfer; provided, however,

that the Developer shall not be required to submit any partnership agreements to the Authority, but may be required to provide supporting information as may be reasonably required by the Authority for its accurate understanding of the contemplated transfer prior to its approval of the transfer, including, without limitation, copies of the instruments and other legal documents filed with public offices to effect such transfer.

4. The Developer and its transferee and transferees shall comply with such other conditions as the Authority may find reasonably necessary and desirable in order to achieve and safeguard the purposes of this Agreement.

c. In the event of any transfer by Developer of a Component Site as permitted in this Section 501, all obligations, responsibilities and liability of the Developer under this Agreement with respect to such Component Site shall cease, and the Authority shall look only to the transferee for the satisfaction of such obligations and responsibilities, and the assertion of such liability, provided however that the Developer shall remain liable for breaches of its obligations and responsibilities hereunder occurring prior to such transfer. If the transferee shall fail or refuse to effect the cure of any violation under this Agreement,

the Authority may institute such actions or proceedings against the transferee as the Authority deems appropriate, including actions and proceedings to compel specific performance, subject to the provisions of Section 905 of this Agreement. Payment of all costs and expenses which may be incurred by the Authority in instituting and prosecuting such action or proceedings shall be governed by Section 701 of this Agreement.

Section 502: Mortgage of Property by the Developer.

The limitations contained in this Agreement relating to Developer's right to encumber, pledge, or convey its rights, title and interest in and to each of the Western Component Site and the Eastern Component Site by way of a bona fide mortgage shall terminate with respect to each Component on the date of the Certificate of Completion for the Component in question; provided, however, that in the event that the Developer's application for final design approval for the Eastern Component is not approved in the DAP Process, said limitations for the Eastern Component shall terminate on the date of final denial of said application by the Authority after exhaustion by Developer of the DAP Process as set forth in Section 303 hereof.

Notwithstanding any other provisions of this Agreement, the Developer shall at all times have the right to encumber, pledge, or convey its rights, title and interest in and to the Project Site and the Improvements, or any portion or portions thereof, by

way of a bona fide mortgage to secure the payment of any loan or loans obtained by the Developer to finance the acquisition of the Property and Private Land (or any portion thereof) and the development, construction, repair or reconstruction of the Improvements or each Component thereof, or to refinance any outstanding loan or loans therefor obtained by the Developer for any such purpose; provided, however, that the Developer shall give prior written notice to the Authority of its intent to exercise such rights hereunder, including in such notice the name(s) and and address(es) of such mortgagee(s) and any other information regarding the mortgagee(s) and mortgage documents which the Authority may reasonably require.

Mortgages on the Project Site shall secure indebtedness related to the development of the Project Site only, or, if the development of each Component Site is to be financed separately, the indebtedness related to the development of the particular Component Site in question only, and may not secure or cross-collateralize indebtedness or obligations arising in connection with other properties unrelated to the development of the Project Site. Each such mortgagee shall agree that the proceeds of such indebtedness shall be used only in the development of the Project Site, or portion thereof in question.

The holder of any such mortgage (including such a holder who obtains title to the Project Site and the Improvements or any

portion or portions thereof by foreclosure or action in lieu thereof, but not including a party who obtains title through such holder or any purchaser at a foreclosure sale other than the holder or its designee) shall not be obligated by this Agreement to construct or complete the Improvements or to guarantee such construction or completion, but shall have the options described in Section 503.

Section 503: Rights and Duties of Mortgagee Upon Acquisition Prior to Completion.

a. If a mortgagee or its designee, through the operation of its contract to finance the acquisition of the Property and development of the Improvements or each Component thereof or by foreclosure, or action in lieu of foreclosure, acquires fee simple title to the Project Site and the Improvements or any portion or portions thereof prior to the completion of the Component in question, the mortgagee or its designee shall have the following options only:

1. Complete construction of such Component in accordance with the approved Drawings and Specifications and any approved Change Order, this Agreement, the PDA Development Plan, PDA Cooperation Agreement and Design Review Process and in all other respects comply with the provisions of this Agreement, or

2. Sell, assign, or transfer, with the prior written consent of the Authority (such consent not to be unreasonably withheld or delayed), fee simple title to the portion of the Project Site and Improvements included in the Component Site and Component in question or any portion or portions thereof to a purchaser, assignee or transferee who shall expressly assume all of the covenants, agreements and obligations of the Developer under this Agreement in respect to only the Component in question by written instrument satisfactory to the Authority and recorded forthwith in the Suffolk County Registry of Deeds, or

3. Reconvey fee simple title to the portion of the Project Site and Improvements included in the Component Site and Component in question or any portion or portions thereof to the Authority, in which event the provisions of Section 901 relative to resale shall apply.

b. In the event that a mortgagee or its designee, elects to complete construction pursuant to subsection (a) (1) above, or sells, assigns or transfers pursuant to subsection (a) (2) above, the Authority shall extend the time limits set forth in Section 304 herein as shall be reasonably necessary to complete

construction of the Improvements in accordance with this Agreement, and upon such completion, the mortgagee, its designee or purchaser, as the case may be, shall be entitled to the Certificate of Completion pursuant to Section 306.

c. In no event shall any mortgagee be liable for breaches of this Agreement prior to the time it acquires title or takes possession of the Project Site (or portion thereof) or after it shall convey title or possession, provided that development, ownership and operation of the Project Site (or portion thereof) shall be subject to compliance with this Agreement and shall require corrections of any such breaches within the time period allowed (as extended hereunder). Notwithstanding the immediately preceding sentence, in no event shall any mortgagee be subject to personal liability for breaches of this Agreement while it owns or controls the Project Site (or portion thereof), all such liability being hereby limited to said mortgagee's interest in the Project Site (or portion thereof). A mortgagee of one Component shall not be responsible for any obligations associated with the other Component, except that the mortgagee of the Western Component (subject to the limitations set forth above) shall be responsible for the separating wall between the Western and Eastern Components in the event that construction of the Eastern Component will not commence prior to December 31, 1988, as provided in Section 305 hereof.

ARTICLE VI

PROVISIONS RELATING TO OPERATION AND MAINTENANCE

Section 601: Maintenance and Operation.

With respect to each Component, the Developer of the applicable Component shall, at all times until the Covenant Expiration Date for such Component, keep the applicable Component Site and all Improvements in the applicable Component in good and safe condition and repair, and in the occupancy, maintenance and operation of the applicable improvements, Component Site and Improvements in such Component shall comply with all laws, ordinances, codes and regulations applicable thereto.

ARTICLE VII

INDEMNIFICATION

Section 701: Reimbursement of City and Authority in Respect of Certain Litigation.

The Developer shall pay all reasonable costs, expenses, judgments, decrees or damages and the amounts of all judgments and decrees, which may be incurred by the City or Authority in any proceedings brought to enforce the obligations of the Developer set forth in the provisions of this Agreement, to the extent the City or Authority so prevails. It is expressly understood, however, that the mortgagee under any mortgage permitted hereunder shall not be liable to the City and Authority for any costs, expenses, judgments, decrees or damages which shall have accrued

against the Developer except that a mortgagee who becomes a mortgagee after, and who acquires title after, the Developer has become liable for any costs, expenses, judgments, decrees or damages, shall take subject to (but not be personally liable for) such costs, expenses, judgments, decrees or damages associated with the Component in question and incurred prior to the mortgage in question.

ARTICLE VIII

INSURANCE

Section 801: Insurance Coverage.

a. With respect to each Component, until the Covenant Expiration Date for such Component, the Developer shall keep the Improvements and personalty used in connection therewith insured by fire and extended risk insurance and additional risk insurance to the same extent and amount which is normally required by institutional mortgagees with respect to similar properties in the City. Such insurance shall be in an amount sufficient to comply with the co-insurance clause applicable to the location and character of the Improvements or equipment, and, in any event, in amounts not less than eighty per centum of the then current replacement cost of such Improvements or equipment. Such replacement cost shall be agreed to annually by the insurer and a certificate thereof delivered to the Authority. All such insurance shall be by standard policies, obtained from financially

sound and responsible insurance companies authorized to do business in Massachusetts, and shall have attached thereto a clause making the loss payable to the Developer, the mortgagee, and, subject to the rights of the Developer and the mortgagee, the City, and the Authority, as their respective interests may appear. The inclusion of the Authority and the City as a loss payee under insurance policies to be maintained by the Developer shall at all times be subordinate to, and shall in no way affect, the rights of any mortgagee named as a loss payee to apply the proceeds of insurance, at the election of such mortgagee, either (i) first, to the repair and reconstruction of the Improvements to the satisfaction of such mortgagee, with any balance of the insurance proceeds after the completion of such repair and reconstruction to be applied to the repayment or reduction of the mortgage indebtedness, with any remaining balance to be paid to the Developer and the City and the Authority, as their respective interests may appear, or (ii) first, to the repayment of any mortgage indebtedness, with any remaining balance to be paid to the Developer and the City and the Authority as their respective interests may appear.

b. Each insurance policy shall be written to become effective at the time the Developer becomes subject to the risk or hazard covered thereby, and shall be continued in full force and

effect for such period as the Developer is subject to such risk or hazard.

c. Certificates of such policies and renewals shall be filed with the Authority and the City at least thirty (30) days prior to the expiration of current coverage.

Section 802: Non-Cancellation Clause.

All insurance polices shall provide that any cancellation, change or termination thereof shall not be effective with respect to the City until after at least thirty (30) days prior notice has been given to the City and Authority to the effect that such insurance policies are to be cancelled, changed or terminated at a particular time.

Section 803: Procurance of Insurance if Developer Fails to do so.

If the Developer at any time refuses, neglects or fails to secure and maintain in full force and effect any or all of the insurance required pursuant to this Agreement, the City or the Authority at its option, may procure or renew such insurance, and all amounts of money paid therefor by the City or the Authority shall be payable by the Developer to the City or the Authority, with interest thereon at the rate of twelve per centum (12%) per annum from the date the same were paid by the City or the Authority to the date of payment thereof by the Developer. The City or the Authority shall notify the Developer in writing of the date, purposes, and amounts of any such payments made by it.

Section 804: Developer's Obligations with Respect to Restoration and Reconstruction.

a. Whenever any Improvements, or any part thereof, shall have been damaged or destroyed prior to the Covenant Expiration Date for the Component in question, the Developer shall proceed promptly to establish and collect all valid claims which may have arisen against insurers or others based upon any such damage or destruction. All proceeds of any such claims and any other monies provided for the reconstruction, restoration or repair of any such Improvements shall, to the extent in excess of $250,000 (such amount to be increased from time to time by percentage increases in an index reasonably reflecting construction cost increases after the date hereof) and unless otherwise required to be distributed by any mortgagee, be deposited in a fully separate account of the Developer or held by the mortgagee holding a mortgage on such Improvements (or such other institutional holder as the Authority may approve), for application, in accordance with then customary institutional construction loan requirements and procedures, to or toward the payment of such reconstruction, restoration or repair, subject, however, to the provisions of subsection (a) of Section 801.

b. The insurance money and any other proceeds so collected shall be used and expended for the purpose of fully repairing or reconstructing the Improvements which have been destroyed or

damaged to a condition at least comparable to that existing at the time of such damage or destruction to the extent that such insurance money and other proceeds may permit. Any excess proceeds after such repair or reconstruction has been fully completed shall be retained by the Developer, subject to the rights of any mortgagee of record permitted hereunder and the rights of the Authority and the City.

c. The Developer, with the written approval of the Authority and any mortgagee of record permitted hereunder (if required under the mortgage) may determine that all or any part of any such damage to or destruction of a Component shall not be reconstructed, restored, or repaired, and in such event, the proceeds of any claims against insurers or others arising out of such damage or destruction, to the extent not used for reconstruction, restoration, or repair shall be retained by the Developer, subject to the rights of such mortgagee and the rights of the Authority and the City.

d. Any reconstruction or repair undertaken pursuant to the provisions of this Section shall in all material respects be in accordance with and conform to the provisions of the PDA Development Plan, the PDA Cooperation Agreement, the Design Review Process, the Drawings and Specifications and any approved Change Orders, and the provisions of this Agreement.

e. In no event shall the Developer be obligated to incur costs for repair and reconstruction in excess of the proceeds, if any, received from claims which may have arisen and been settled against the insurers on account of damage or destruction for construction, restoration or repair and which the mortgagee permits to be used therefor. To the extent that insufficient monies are received, the Developer's obligation to reconstruct, restore or repair shall be reduced, provided that any such reduced reconstruction, restoration or repair shall be subject to approval by the Authority with respect to the external appearance of pedestrian walkways from Berkeley and Clarendon Streets through the Improvements, of courtyards visible from the exterior of the Improvements, of open spaces, courtyards and landscaping, or the external appearance of any building (including roof and penthouse). Developer agrees to exercise all reasonable efforts to obtain permits necessary to reconstruct, restore or repair such Improvements, but Developer shall in no event be obligated under this Agreement to reconstruct, restore or repair such Improvements if applicable laws or regulations do not allow the same to be accomplished.

Section 805: Commencement and Completion of Reconstruction.

Subject to the foregoing, the Developer shall commence to reconstruct or repair any Improvements and equipment on the Project Site or any portion or portions thereof, which have been

destroyed or damaged prior to the Covenant Expiration Date applicable thereto, within a period not to exceed six (6) months after the insurance or other proceeds with respect to such destroyed or damaged property have been received by the Developer or any mortgagee which will make such proceeds available therefor (or, if the conditions then prevailing require a longer period, such longer period as the conditions shall mandate), and shall diligently and with reasonable dispatch prosecute such reconstruction or repair to completion. Notwithstanding the foregoing, such reconstruction or repair shall in any event be completed within twenty-four (24) months after the start thereof, or such longer period as is reasonably required therefor.

ARTICLE IX

RIGHTS, REMEDIES AND PROCEDURES IN THE EVENT OF A BREACH BY DEVELOPER

Section 901: Default by Developer re Design Procedures, Construction, and Transfers.

Except for the provisions of Section 905, the default provisions of this Article IX shall cease to apply to a Component and the applicable Component Site and any Improvements thereon, once a Certificate of Completion has issued for such Component.

If after delivery of the Deed the Developer shall fail or refuse to commence, diligently pursue or complete construction of a Component in accordance herewith, to comply with the Design Review Process applicable thereto, or if there is any unauthorized

change in the managing development interests of the Developer with respect to ownership of such Component as provided in Section 501, the Authority shall in writing notify the Developer of such failure or violation. The Developer shall thereupon have 180 days from the receipt by it of such written notice to cure such failure or violation.

a. If the Developer does not cure such failure or violation within the 180 day period (or within such extended period of time as may be established by the Authority acting solely in its discretion) or where cure requires more than 180 days if the Developer does not promptly begin such cure and thereafter diligently prosecute the same to completion, and if the then holders of record of permitted mortgages on the Component in question do not exercise their rights to cure such violation or failure (as provided in Section 903 hereof), an Event of Default shall be deemed to exist, but only with respect to the Component in question.

The Authority may invoke the remedies hereunder and under Section 901(b) on account of an Event of Default under this Article at any time within a two-year period after the date of the notice which initially triggered the Event of Default in question. The Authority shall be deemed to "invoke its remedies hereunder" with respect to a portion of the Project Site or a Component Site

upon the earlier of a written demand for conveyance or reconveyance thereof pursuant to this Agreement or reentry in accordance with Section 901(b). Failure of the Authority timely to invoke such remedy shall be deemed a waiver of the particular Event of Default and of the Developer's obligations herein which underly such Event of Default with regard to the Component in question.

(i) If an Event of Default relating to the Western Component occurs prior to the commencement of any substantial construction of either Component (demolition and surface site work shall not be considered substantial construction, but the good faith commencement of excavation, foundation and other subsurface work shall constitute substantial construction), then the Authority's sole remedy shall be to cause a reconveyance of the Property only, pursuant to this Section 901(a) and the related provisions of this Article IX and this Agreement shall terminate without recourse to the parties except that the provisions of Sections 901(c) and (d) shall not terminate.

(ii) If an Event of Default relating to the Western Component occurs after commencement of substantial construction of the Western Component, or if an Event of Default relating to the Eastern Component occurs at any time, then the Authority's sole remedy shall be to institute such action and proceedings as may be appropriate against the Developer

of the Component in question, including actions and proceedings to compel specific performance and payment of all damages, expenses and costs (subject to the provisions of Section 905). The provisions of this subsection (ii) shall apply separately to each Component.

To the extent that the Authority invokes the remedy provided in clause (i) above, the Developer shall promptly transfer possession of, and convey to the Authority by Quitclaim Deed, the Property, provided that such conveyance shall be subject only to any existing mortgages thereon and other encumbrances permitted under this Agreement. If the Developer shall fail so to convey, the Authority may institute such actions or proceedings as it may deem advisable as well as proceedings to compel specific performance and the payment of damages, expenses and costs by the Developer.

b. In the event of an Event of Default under clause (i) above, the Authority shall also have the right to re-enter and take possession of the Property and to terminate (and reinvest and vest in the Authority) the fee simple estate therein, in the title condition described in Section 901(a), it being the intent of this, together with other provisions of this Agreement, that the conveyance of the Property to the Developer shall be made upon a condition subsequent to the effect that (i) in the event of such an Event of Default prior to the commencement of substantial

construction of either Component, the Authority at its option may declare a termination in favor of the Authority of the title to, and of all the rights and interests in, the Property; and that such title, and all rights and interests of the Developer, and any assigns or successors in interest, in the Property shall revert to the Authority; provided, that such condition subsequent and any revesting of title as a result thereof in the Authority shall always be subject to and limited by and shall not defeat, render invalid, or limit in any way the lien of any mortgage authorized by this Agreement, or any rights or interests provided herein for the protection of the holders of such mortgages.

c. If the Developer or a mortgagee reconveys to the Authority, pursuant to Section 901(a)(i), Section 905, or Section 503(a)(3), the Authority shall, subject to Developer's Rights of Refusal described in Section 901(d), undertake with due diligence and in a commercially reasonable manner to resell the Property under Section 901(a)(i) or the Project Site, or so much thereof as has been so reconveyed or which it has so re-entered, under Section 905 or Section 503(a)(3), and all Improvements thereon. In preparation for resale, the Authority shall consult with, and consider suggestions of, the Developer and any mortgagee as to methods and strategies of maximizing the net proceeds from the resale of the Property, or the Project Site or portion thereof in question. The Authority may attempt to resell the Property, or

the Project Site or any portion thereof in question in an "as is" condition, and shall have no obligation to spend any funds in order to prepare the Property, or the Project Site or portion thereof in question, for sale. The resale shall be for cash only, unless the first mortgagee of record otherwise directs or approves. The proceeds of such resale, together with the net income, if any, derived by the Authority from its operation and management of the Property, or the Project Site or portion thereof in question, subsequent to such reconveyance shall be used:

(1) First, to pay all taxes, payments in lieu of taxes, public charges and other sums owing to the City, except for development impact project exactions (i.e., so-called linkage payments), with respect to the Property, or the Project Site or portion thereof in question, and the Improvements thereon up to the time of such resale (or in the event the Property, or the Project Site or the portion thereof in question is and the Improvements thereon are exempt from taxation during the period of ownership thereof by the City, an amount equal to such taxes as would have been payable if the same were not so exempt); and

(2) Second, in their respective order of priority to pay (a) any and all mortgage indebtedness permitted or authorized by this Agreement and allocable to the

Property, or the Project Site or the portion thereof in question (including, but not limited to, accrued and unpaid interest and other amounts payable thereunder) and (b) any and all amounts to be paid to entities except Developer (but not excepting equity contributions from partners or affiliates of partners within Developer other than NEL and Hines), representing equity contributions utilized in the development and construction of the Property, or the Project Site or the portion thereof in question as provided in Section 1101(a) (including, but not limited to, accrued and unpaid interest and other amounts payable thereunder), and to make all and whatever payments may be necessary to discharge any other encumbrances or liens existing or threatened on the Property, or the Project Site or portion thereof in question, or the Improvements, in favor of mechanics, materialmen or subcontractors;

(3) Third, to pay all development impact project exactions owing to the City with respect to the Improvements on the Property, or the Project Site or the portion thereof in question up to the time of such resale;

(4) Fourth, to reimburse the City and the Authority for (i) all out-of-pocket third party expenses reasonably and proximately incurred by the City and the Authority,

including legal, management, brokerage, and repair costs, in connection with the recapture, management, conservation, construction and resale of the Property, or the Project Site or the portion thereof in question and the Improvements thereon and (ii) all so-called "internal" costs and expenses reasonably and proximately incurred by the City and the Authority, including the salaries of City and the Authority personnel reasonably related to the direct administration and supervision of the Project, in connection with the recapture, management and resale of the Property, or the Project Site or the portion thereof in question or the Improvements and all administrative and overhead costs in connection therewith;

(5) Fifth, to reimburse the Developer for 100% of the fair market value as of the date of this Agreement of any Private Land included in the Project Site or portion thereof in question;

(6) Sixth, to pay or reimburse the City and the Authority for any amounts otherwise owing to the City and the Authority in connection with the Property, or the Project Site or the portion thereof in question, from the Developer;

(7) Seventh, to reimburse the Developer for an amount calculated at the annual rate of 12.75% on 100% of the fair market value of any Private Land included in the Project Site or portion thereof in question from the date of this Agreement through the times said value is reimbursed under Paragraph (4) of this Section 901(c);

(8) Eighth, to reimburse the Developer for 100% of the "Total Development Cost" allocable to the Property, or the Project Site or the portion thereof in question and the Improvements thereon plus an amount calculated at the annual rate of 12.75% on 100% of the Total Development Cost allocable to the Property, or the Project Site or the portion thereof in question and Improvements thereon from the times incurred through the times said cost is reimbursed under this clause (7) of this Section. "Total Development Cost" means the amount expended by the Developer in the purchase of the Property and development and construction of the Improvements thereon less any profit theretofore realized by the Developer from the disposition of any interest therein or in any part or parcel thereof, and less any net income realized by the Developer after the date of this Agreement from its use of the Property, or

the Project Site or portion thereof in question or such interest;

(9) Ninth, any balance remaining shall remain the property of the Authority.

d. The Developer shall have the following rights of refusal prior to any resale or other disposition by the Authority of the Property or any portion of the Project Site and Improvements thereon under this Article IX after an Event of Default. Prior to entering into any transaction with a third party for resale or other disposition of all or any portion of the Project Site under this Article IX on terms relating to the required development thereof which differ in any material respect from the requirements imposed on Developer with respect thereto hereunder (the "Revised Development Conditions"), the Authority shall first reoffer the Property or such portion of the Project Site and improvements to Developer for at least a one-month period on the Revised Development Conditions. If Developer accepts such reoffer within such one-month period, the Property, or the Project Site or portion thereof in question and Improvements thereon shall be reconveyed to the Developer or its designee (subject to the approval of the Authority as permitted by the terms of Article V hereof) subject to the Revised Development Conditions which shall be substituted for the corresponding terms of this Agreement and the PDA Cooperation Agreement shall, if necessary, be revised

accordingly, unless the Authority in good faith determines that Developer is not ready, willing and able to develop the Property, or the Project Site or the portion thereof in question in accordance with the Revised Development Conditions. If Developer does not exercise its rights within such one-month period, the Authority shall be free to resell or redispose of the Property or portion of the Project Site in question, free of Developer's Rights of Refusal hereunder, at any time within one year after the date of the reoffer to Developer on terms which are no more favorable to the buyer than the Revised Development Conditions offered to Developer hereunder. If the Authority does not so resell, the Developer's Rights of Refusal shall apply prior to any subsequent resales or redispositions based on Revised Development Conditions. The Authority's determination as to whether Revised Development Conditions exist or as to whether the Authority's resale or redisposition is on terms which are no more favorable to the buyer than the Revised Development Conditions offered to Developer hereunder shall be conclusive if such determination is made in good faith.

Section 902: Notices of Breaches to Mortgagees.

If the Authority gives written notice to the Developer of a default under this Agreement, the Authority shall forthwith furnish a copy of the notice to each of the mortgagees of record of the portion of the Project Site in question, permitted under

this Agreement. Failure to provide any such mortgagee with a copy of a notice of default shall render such notice invalid and ineffective. To facilitate the operation of this Section, the Developer shall at all times keep the Authority provided with an up-to-date list of names and addresses of mortgagees from whom the Developer has obtained loans as permitted under this Agreement. Any such mortgagee or holder may notify the Authority of its address and request that the provisions of Section 1306 as they relate to notices apply to it. The Authority agrees to comply with any such request.

Section 903: Mortgagee May Cure Breach of Developer.

If the Developer has received notice from the Authority of a default under this Agreement and such breach is not cured by the Developer before the expiration of the period provided therefor, the holders of record mortgages on the portion of the Property in question as permitted under this Agreement may cure any breach upon giving written notice of their intention to do so to the Authority within ninety (90) days after the expiration of the period provided for Developer's cure thereof, and shall thereupon proceed with due diligence to cure such breach. Any cure of a breach hereunder by a mortgagee shall be deemed a cure of said breach by Developer.

If any mortgagee elects so to cure any breach, a reasonable extension of time for performance will be granted by the Authority

to enable the mortgagee, and its transferee, to obtain possession and control of the Project Site, or portion thereof in question, by foreclosure or otherwise, and to correct such breach, to satisfy the provisions of this Agreement, and to complete construction of a Component to the extent that the Developer, such mortgagee or its transferee will be entitled to receive a Certificate of Completion hereunder. In any event, so long as the mortgagee or its transferee is diligently pursuing a cure of the breach, the Authority shall not invoke any of its remedies hereunder.

Section 904: Cross Easements.

If the Authority invokes its remedy under Section 901(a)(i), (ii) or (iii) with respect to a portion, but less than all, of the Project Site, or the Developer or a mortgagee reconveys to the Authority pursuant to Section 905 or Section 503(a)(3) a portion, but less than all, of the Project Site, then the Developer and the Authority agree each to grant easements to the other as may be required and appropriate for the construction and operation of the Component on the property owned by each party. This provision shall survive until such time as a Certificate of Completion has been issued for both the Western Component and the Eastern Component.

Section 905: Remedies for Other Breaches.

It is understood by the parties hereto that in the event any party shall fail to comply with or violate any of the provisions of this Agreement, then the other party hereto may institute such actions and proceedings as may be appropriate, including actions and proceedings to compel specific performance and payment of all damages, expenses, and costs, provided however that in lieu of actions and proceedings by the Authority to compel specific performance by Developer to complete construction of the Improvements, the Developer may elect to convey to the Authority the Project Site, or portion thereof in question, by Quitclaim Deed subject only to any existing mortgages and other encumbrances permitted under this Agreement (in which case the provisions of Section 901(c) and (d) shall apply). Any such actions or proceedings by the Authority or the City shall relate only to the Component in question, it being the intent hereof that the remedies provided herein (except as specifically provided otherwise) apply separately to each Component. Neither these remedies nor that class of remedies more particularly described in this Agreement shall be exclusive unless specifically so described, provided, however, that the remedies prescribed in Section 901 for the defaults therein described respecting reconveyance are exclusive and that no other rights of reconveyance are to be implied hereunder. The provisions of this

Section 905 shall survive issuance of the Certificates of Completion hereunder.

ARTICLE X

DESIGNATION CONDITIONS

Section 1001: Compliance with Designation Conditions; Linkage.

a. The Developer shall at all times proceed hereunder in essential conformity with the Designation Conditions. The Designation Conditions shall, at Developer's request, from time to time, be reviewed by the Authority to the extent that Developer is unable to conform therewith by reason of applicable legal requirements or changed legal circumstances or other matters beyond the control of the Developer. Decisions made by the Authority after good faith reasonable attempts to preserve the essential rights and obligations of the parties shall be conclusive. Where any Designation Condition is inconsistent with this Agreement, the provisions of this Agreement shall prevail. Otherwise, the provisions of this Agreement shall supplement, but not supersede, the Designation Conditions.

b. Among other things, one Designation Condition is that the Developer is required to comply with certain so-called "linkage policies". Linkage policies for the City of Boston are contained in Article 26 of the Boston Zoning Code. In implementation of that requirement, and to provide adequate protection to the City of Boston should said Article 26 be invalidated, or

otherwise become unenforceable in whole or in part, the Developer and the Authority have entered into the agreement attached as Exhibit F.

ARTICLE XI

CONDITIONS PRECEDENT TO CERTAIN CONSTRUCTION

Section 1101: Conditions Precedent to Certain Construction.

As conditions precedent to the commencement of construction of a particular Component, the Developer shall satisfy the following conditions (which, if not satisfied by the relevant Construction Commencement Date, shall constitute a failure or violation to which the default provisions of Section 901 apply):

a. Not later than commencement of construction for each Component, Developer shall submit to the Authority a copy (certified by Developer to be true and correct) of a firm commitment, issued by a lender which is reasonably satisfactory to the Authority and which is an Institution as herein defined, whereby such lender agrees to furnish construction financing for the Improvements contained in the Drawings and Specifications for such Component together with evidence satisfactory to the Authority that Developer has demonstrated, to the satisfaction of such lender, the availability of equity capital which, when combined with the financing to be provided by such lender is adequate to complete the Improvements included in such Component (and any off-site improvements associated therewith) in accordance with the

requirements of this Agreement, provided however that, in place of the above, the Developer may submit to the Authority evidence satisfactory to the Authority that NEL will use its own resources to finance construction of the applicable Component. Such commitment shall be accompanied by such further materials as the Authority may reasonably request evidencing satisfaction of, or Developer's ability to satisfy, the conditions to lending therein set forth. Institution shall mean any one of the following:

(i) a bank, insurance company, savings and loan association, trust company or a corporation, trust or association qualifying as a real estate investment trust under the provisions of Section 856 of the Internal Revenue Code (or like future provisions of such Code) chartered under the laws of the United States of America or any State thereof, and with a principal place of business in one of such States and a combined capital and surplus account (or, in the case of a mutual company, the equivalent thereof) of not less than $400,000,000.

(ii) an educational institution with a capital endowment of not less than $400,000,000.

(iii) a pension fund established by and for any business corporation or corporations, or by and for any group of employees of a governmental body or of a

religious or educational institution or for any trade union, and, in each case, having a net worth, determined in accordance with sound, conservative accounting practice, of not less than $400,000,000.

(iv) any combination of the foregoing with a combined net worth, capital and surplus account, capital endowment and the like of not less than $400,000,000.

b. Not later than commencement of construction of each Component, Developer shall submit to the Authority:

(i) Reasonable evidence of the capability of the Architect for such Component and the Contractor engaged by Developer for the construction of the Improvements shown and described in the Drawings and Specifications for such Component, of undertaking the work on such Component and the engagement of such Architect and Contractor to undertake the work on such Component.

(ii) A copy of a building permit issued by the Boston Building Department fully covering the Improvements to be constructed in such Component, together with evidence satisfactory to the Authority that all fees in connection therewith have been paid.

(iii) A copy of a performance and payment bond or other assurance of completion of the Component contained in the Drawings and Specifications satisfactory in form

and amount to the Authority. Notwithstanding the foregoing, if the construction mortgagee for the Component in question accepts some form of completion assurance other than a performance and payment bond, the Authority shall accept such form of assurance hereunder with the City named as co-obligee with such mortgagee.

Developer shall at all times keep the Authority fully and currently advised of the status of all aspects of Developer's progress in meeting the conditions of this Agreement with respect to the development of each Component, including, without limiting the generality of the foregoing, development of the Design Documentation, securing of construction financing, and arrangements for construction. All contracts entered into by Developer respecting the development of the Project Site shall obligate the parties to act in a manner consistent with the appropriate obligations of Developer under this Agreement. During the implementation of any such contracts the Authority shall have the right to review all aspects of the work performed thereunder in order to insure that such work is being undertaken in a manner consistent with the obligations of Developer under this Agreement.

ARTICLE XII

ANTI-DISCRIMINATION; HIRING

Section 1201: Anti-Discrimination; Hiring.

The Developer agrees that in the construction of each Component, and otherwise through the Covenant Expiration Date for

each Component, it shall comply and shall in good faith cause all contractors, tenants and users of the Component in question to comply with all applicable laws, ordinances, regulations and orders from time to time in effect relating to non-discrimination, equal employment opportunity, contract compliance and affirmative action, and, in connection with the construction of each Component, the policy for hiring minority, women and Boston resident workers attached hereto as Exhibit H-1.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

Section 1301: Obligations and Rights and Remedies Cumulative and Separable.

The respective rights and remedies of the City, the Authority and the Developer provided by this Agreement or by law shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude the exercise, at the same or different times of any other such rights or remedies.

Section 1302: Amendment.

This Agreement shall constitute the entire agreement between the parties hereto as to the subject matter hereof; it may be amended only by an instrument in writing signed by the City, acting by and through the Authority, the Authority and the Developer, and approved by any mortgagee permitted hereunder, if any.

Section 1303: How Agreement Affected by Provisions Being Held Invalid.

If any provisions of this Agreement are held invalid, the remainder of this Agreement shall not be affected thereby, if such remainder would then continue to conform to the requirements of applicable laws.

Section 1304: Time of Essence; Covenants to be Enforceable.

Time is of the essence in the performance of this Agreement, and the parties hereto shall diligently, promptly and punctually perform the obligations required to be performed by each of them and shall diligently, promptly and punctually fulfill the conditions applicable to each of them.

The covenants herein contained relating to each Component, which are expressly stated to be separate covenants running with each respective Component Site, shall be stated or incorporated by reference in any instrument of conveyance or lease relating to the applicable Component Site or any portion thereof or any interest therein and shall in any event and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement be, to the fullest extent permitted by law and equity, binding for the benefit and in favor of, and enforceable by, the City and the Authority against the Developer (including its successors and assigns to or of the applicable Component Site, the Improvements

thereon, or any part thereof or any interest therein and any party in possession or occupancy of the applicable Component Site, the Improvements thereon or any part thereof). In amplification, and not in restriction of the provisions hereof, it is intended and agreed that the City and the Authority shall be deemed beneficiaries of such covenants, both for and in their own right and also for the purposes of protecting the interests of the community and the other parties, public or private, in whose favor or for whose benefit such covenants have been provided.

Section 1305: City and Authority Staff and Officers Barred From Interest.

a. No member, official or employee of the City and the Authority shall have any personal interest, direct or indirect, in this Agreement or the Developer, nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his personal interest or the interests of any corporation, partnership, or association in which he is, directly or indirectly, interested. No member, official or employee of the City or the Authority shall be personally liable to the Developer or any successor in interest in the event of any default or breach by the City or the Authority or for any amount which may become due to the Developer or to its successor or on any obligations under the terms of this Agreement.

b. The Developer covenants that it has not employed or retained any company or person (other than a full-time bona fide employee working for the Developer and a party working for the Developer pursuant to a contract) to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person (other than such an employee or party) any gift, contribution, fee, commission, percentage, or brokerage fee, contingent upon or resulting from the execution of this Agreement.

Section 1306: Approvals and Notices.

Where provisions of this Agreement require that notices, consents, approvals, authorizations, certifications, reviews and the like are required to be given to the Authority or received from the Authority hereunder, such provisions shall be deemed to require that such notices, consents, approvals, authorizations, certifications, reviews and the like be given to or received from the Authority acting as agent for the City in connection with the City's transfer to NEL of certain of the Property hereunder on behalf of the City. In addition and not in limitation of the Authority's rights and responsibilities on its own behalf hereunder, the Public Facilities Commission of the City has delegated to the Authority all of its powers and functions to act hereunder on behalf of the City of Boston following execution of the Original Agreement with respect to all construction and design approvals required herein and following delivery of the deed and

payment of the purchase price with respect to all other matters herein, and the Developer has entered into the Original Agreement and this Agreement in reliance upon such delegation to the Authority. Accordingly, where, pursuant to this Agreement, any document or proposed action by the Developer is submitted by it to the Authority with respect to all construction design approvals required herein and following delivery of the deed and payment of the purchase price with respect to all other matters herein, and the Developer has been notified in writing by the Authority that the same is approved or is satisfactory, such determination shall be conclusively deemed to be a final determination by both the Authority and the City with respect to such particular document or proposed action for which such approval or notice of satisfaction was given.

Where the consent or approval of the City or Authority is required hereunder, such consent or approval shall not be unreasonably withheld, but the same shall be valid and binding only if given in a writing signed by a duly authorized official, provided however that whenever this Agreement requires that an approval or disapproval be given within a specified time period, a failure to approve or disapprove within said period shall be deemed a valid and binding approval thereof, but only if the notice and request for approvals requirements hereof have been complied with by Developer. Any reference in this Agreement to

the number of days within which any action must be taken by any party hereto shall mean (1) business days when the number of days is 30 or less, and (2) calendar days when the number of days is more than 30.

Notices shall be deemed given when deposited in the United States mail and sent registered or certified mail, postage prepaid, to the principal office of the party to whom it is directed, which is initially as follows:

Developer: New England Mutual Life Insurance Company and Gerald D. Hines Interests, Inc.
c/o Copley Real Estate Advisors, Inc.
535 Boylston Street
Boston, Massachusetts 02116

with a copy to: Gerald D. Hines Interests, Inc.
2800 Post Oak Road
Houston, Texas 77056

with a copy to: Meredith & Grew, Incorporated
125 High Street
Boston, Massachusetts
Attn: Brian L. P. Fallon

with a copy to: Robert C. Santomenna, Esq.
Hale and Dorr
60 State Street
Boston, Massachusetts 02109

and in the case of notices pertaining to the Western Component:

with a copy to: Dutch Investment Holding Company
200 Galeria Parkway Northwest
Atlanta, Georgia 30339
Attn: Charles W. Strawser, Jr.

with a copy to: Robert M. Safron, Esq.
Paskus, Gordon & Mandel
45 Rockefeller Plaza
New York, NY 10111

City: City of Boston
Public Facilities Department
26 Court Street, 6th Floor
Boston, Massachusetts 02108

Authority: Boston Redevelopment Authority
City Hall Square
Boston, Massachusetts 02201
Attn: Director

Prior to completion of the Project, copies of all notices to the City and the Authority shall also be sent, where applicable, to the St. James Avenue Civic Advisory Committee c/o Mr. David Johnson, Chairman, Johnson Olney Associates, 75 Kneeland Street, Boston, MA 02111, or to such other address as the Authority may direct.

The parties shall promptly notify each other of any change of their respective addresses set forth above.

Any requests for approvals made by Developer to the City or Authority where such approvals shall be deemed granted after a period of non-reply by the City or the Authority shall, as a condition to the effectiveness thereof, be prefaced with the following language printed in capital letters in bold face type:

"NOTICE

THIS REQUEST FOR APPROVAL REQUIRES IMMEDIATE REPLY

FAILURE TO RESPOND WITHIN _____ DAYS

SHALL RESULT IN AUTOMATIC APPROVAL"

Notice and other communications to mortgagees shall be deemed given when deposited in the United States mail and sent registered

or certified mail, postage prepaid, to the last known address of the party concerned.

Section 1307: Matters to be Disregarded.

The index to and titles of the several articles and sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions of this Agreement.

Section 1308: Obligations to Continue.

Except as to obligations expressly or by clear implication required to be performed at or prior to the time of Closing of the sale and conveyance of title to and delivery of possession of the Property, and except as otherwise herein expressly provided with respect to issuance of the Certificate of Completion, the provisions of this Agreement shall survive the time of Closing and the sale and conveyance of title to and the delivery of possession of the Property to the Developer until the Covenant Expiration Date of the Component in question. Thereafter, upon notice by Developer or any mortgagee requesting the City or the Authority to provide an instrument suitable for recording acknowledging the expiration of the covenants herein contained and this Agreement as to a Component, the City or the Authority shall provide such an instrument to the Developer or mortgagee, as the case may be, which instrument, upon recording with the Suffolk Registry of Deeds, shall conclusively establish the expiration of said

covenants and this Agreement as to the Component in question. Upon the failure of the City or the Authority to supply such instrument within fifteen days of notice of such request, the Developer or mortgagee may record an affidavit with said Deeds attesting to the expiration of the covenants herein contained and this Agreement which, upon recording with said Deeds, shall conclusively establish the expiration of said covenants and this Agreement as to the Component in question.

Section 1309: Excusable Delays.

For the purposes of any of the provisions of this Agreement, neither the City nor the Authority nor the Developer, as the case may be, shall be considered in breach of or default in its obligations hereunder in the event of unavoidable delay in the performance of such obligations due to causes beyond its control and without its fault or negligence, including but not restricted to, acts of God, or of the public enemy, acts of the Government, acts of the other party, fires, floods, or other casualties, epidemics, quarantine restrictions, labor disputes, freight embargoes, and unusually severe weather or delays of contractors and subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of such party shall be extended for the period of the enforced delay, provided, that the party seeking the benefit of

the provisions of this Section shall, within thirty (30) days after the beginning of any such enforced delay, have first notified the other party thereof in writing stating the cause or causes thereof and requested an extension for the period of the enforced delay. In calculating the length of the delay, the City and the Authority shall consider not only actual work stoppages but also any consequential delays resulting from such stoppages as well. In no event shall any inability to secure a building permit (unless caused by the City, the Authority or matters beyond the Developer's reasonable control) or financing difficulty be a cause for an extension hereunder.

Section 1310: Agreement Binding on Successors and Assigns.

The respective provisions of this Agreement, in accordance with their terms, shall be binding upon, and shall inure to the benefit of the successors and assigns of the Developer and any public body succeeding to the interests of the City or the Authority.

Section 1311: Limitation of Developer's Liability.

The liability of the Developer, NEL, Hines or a transferee of any one of them (collectively, the "Liable Party") hereunder and under guaranties, covenants, certifications and the like delivered pursuant hereto shall not in any event exceed, in the aggregate, two hundred fifty thousand dollars ($250,000.00) with respect to each Component, and no partner, venturer, trustee, beneficiary

shareholder, officer, director or the like of the Liable Party, from time to time, shall have any personal liability hereunder or thereunder. Nothing stated herein shall enlarge the remedies of the Authority against the Liable Party for any default beyond those set forth in Article IX.

Except as otherwise provided in Section 901, but notwithstanding anything else to the contrary herein contained, liability arising under this Agreement in connection with a particular Component shall be limited to the interest of the Liable Party in such Component (including the proceeds and profits arising therefrom) and no action for equitable relief, including, without limitation, an action to compel specific performance, in connection with one Component may be maintained against the Developer of the other Component or any other party because of its interest in the other Component. In illustration, but not limitation of the foregoing, if separate legal entities own each of the Western Component Site and the Eastern Component Site in accordance with and as contemplated by Section 501(b) hereof, then, except as otherwise provided in Section 901, the Western Component Site owner shall have no liability or responsibility and shall be subject to no injunctive relief in connection with the acts, neglects, defaults and the like of the Eastern Component Site owner or for any occurrence or condition of the Eastern Component Site, and vice versa.

Section 1312: Waivers.

Any right or remedy which the City, the Authority or the Developer may have under this Agreement, or any of the provisions, may be waived in writing, without execution of a new or supplementary Agreement, but any such waiver shall not affect any other rights not specifically waived, and no waiver by the Developer of a right under Section 901 shall be effective unless approved in writing by everyone then entitled to be given notice under Section 902. The City or the Authority, in writing, may waive any provisions herein contained for its or their benefit.

Section 1313: Sole Obligation of Authority and City.

The sole obligation of the Authority and the City hereunder shall be timely to perform their respective duties set forth hereunder with respect to approvals required of them, with respect to final designation of Developer and with respect to conveyance of the Property. The City and the Authority shall, however, fully cooperate with Developer in efforts to obtain approvals from other governmental authorities of the City of Boston; provided, however, that neither the Authority nor the City guaranty the issuance of any such approvals.

Section 1314: Status Reports.

The Authority shall, within ten (10) days after written request therefor by NEL, Hines, Developer or Mortgagee, provide a certificate in writing to the effect that NEL, Hines or the

Developer, as requested or applicable, is in compliance with this Agreement or any particular section hereof specified by the requesting party, and, in the case of any non-compliance, specifying in what respects there is not compliance. The Authority hereby authorizes the Director of the Authority to execute and deliver any such certificate on behalf of the Authority.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement in five counterparts to be signed, sealed and delivered by their duly authorized officers or representatives, respectively as of the day and year first above written.

APPROVED AS TO FORM:

_____
Chief General Counsel
Boston Redevelopment Authority

CITY OF BOSTON, acting by and through the BOSTON REDEVELOPMENT AUTHORITY

By_____

Date of execution:

BOSTON REDEVELOPMENT AUTHORITY

By_____
Director

Date of execution:

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

By: Copley Real Estate Advisors, Inc.
Asset Manager and Advisor

By_____

Date of execution:

Signed, sealed and delivered in the presence of:

GERALD D. HINES INTERESTS, INC.

_____

By_____

Date of execution:

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss. Boston , 1986

Then personally appeared before me the above-named Stephen Coyle, Director of the Boston Redevelopment Authority, who executed the foregoing Agreement on behalf of the Boston Redevelopment Authority and acknowledged the same to be the free act and deed of said Authority.

Before me,

Notary Public

My commission expires:

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss. Boston , 1986

Then personally appeared before me the above-named Stephen Coyle, Director of the Boston Redevelopment Authority, who executed the foregoing Agreement on behalf of the Boston Redevelopment Authority, acting for the City of Boston, and acknowledged the same to be the free act and deed of the Boston Redevelopment Authority, acting for the City of Boston.

Before me,

Notary Public

My commission expires:

COMMONWEALTH OF MASSACHUSETTS

County of Suffolk _____, 1986

Then personally appeared the above-named _____, the _____ of Copley Real Estate Advisors, Inc., acting on behalf of New England Mutual Life Insurance Company, and acknowledged the foregoing instrument to be the free act and deed of New England Mutual Life Insurance Company.

Before me,

_____
Notary Public

My commission expires:

COMMONWEALTH OF MASSACHUSETTS

County of Suffolk _____, 1986

Then personally appeared before me the above-named _____, the _____ of Gerald D. Hines Interests, Inc. and acknowledged the foregoing to be the free act and deed of Gerald D. Hines Interests, Inc.

Before me,

_____
Notary Public
My commission expires:

EXHIBIT T

Name	Address
New England Mutual Life Insurance Company	501 Boylston Street Boston, Massachusetts 02117
Gerald D. Hines Interests, Inc.	Transco Tower 2800 Post Oak Boulevard Houston, Texas 77056
Gerald D. Hines	Transco Tower 2800 Post Oak Boulevard Houston, Texas 77056
Jeffrey C. Hines	1850 RepublicBank Center Houston, Texas 77002
Kenneth W. Hubbard	375 Park Avenue, Suite 3101 New York, New York 10152
E. Staman Ogilvie	Transco Tower 2800 Post Oak Boulevard Houston, Texas 77056
Thomas Owens	35 Boylston Street 11th Floor Boston, Massachusetts 02117
Thomas B. Swift	101 California Street Suite 4500 San Francisco, California 94111

CITY OF BOSTON

IN CITY COUNCIL

WHEREAS, THE CITY OF BOSTON Real Property Department has notified the Public Facilities Department that said Department has determined that the St. James Avenue Garage, in the City of Boston is no longer needed for Real Property Department purposes; it is hereby

ORDERED: That the land with building, known as the St. James Avenue Garage, having been declared surplus by the Real Property Board is hereby found to be surplus within the meaning of St. 1909, c. 486, s. 31B (as appearing in St. 1966, c. 642, s. 12) and the care, custody, management and control thereof is hereby transferred to the Public Facilities Commission.

BE IT FURTHER ORDERED: That the above be and hereby is expressly conditionally approved upon the following terms:

1. Purchase price shall be $7,766,400 for the land with building known as the St. James Avenue Garage.

2. Purchaser/developer agrees to maintain at least 625 parking spaces for public use.

3. Purchaser/developer agrees to pay $6,000,000 to the City of Boston pursuant to the City of Boston's Policy on Linkage Between Downtown Development and Neighborhood Housing.

In City Council April 18, 1984. Passed.

Approved by the Mayor May 4, 1984.

Attest:

City Clerk.

CITY OF BOSTON

IN CITY COUNCIL

WHEREAS, The Boston City Council found that the land with building known as the St. James Avenue Garage (the "Garage Parcel") was surplus within the meaning of St. 1909, c.486, s.31B (as appearing in St. 1966, c. 642, s. 12) and transferred the care, custody, management and control thereof to the Public Facilities Commission by Order of April 18, 1984 (the "Order"), all in pursuance of a proposed development of the Garage Parcel and adjacent land; and

WHEREAS, the Order was conditioned upon a purchase price for the Garage Parcel of $7,766,400; and

WHEREAS, said purchase price was intended to include the price for adjacent properties discontinued as public ways by the Public Improvement Commission with the approval of the Mayor (the "Discontinued Ways"); and

WHEREAS, transfer of the Discontinued Ways to the Public Facilities Commission for disposition is necessary to accomplish the proposed development of the Garage Parcel and adjacent land, which proposed development has the support of the Boston Redevelopment Authority and the St. James Avenue Civic Advisory Committee, a citizen's advisory group monitoring the proposed development; it is hereby

CITY OF BOSTON
IN CITY COUNCIL

ORDERED, that the following properties be and are hereby transferred to the Public Facilities Commission for disposition with the approval of the Mayor, by an instrument satisfactory to the Law Department:

1) The property shown on a plan entitled "City of Boston, Public Works Department, Engineering Division, Discontinuance Plan, Providence Street, Boston Proper, January 9, 1984, Francis H. O'Rourke, Division Engineer," further described as the portion of Providence Street from Berkeley Street to Clarendon Street, bounded easterly by Berkeley Street, twenty-two and 00/100 feet; southerly by the southerly line of Providence Street as hereby transferred, one hundred seventy-four and 80/100 feet; westerly by the westerly line of Providence Street, as hereby transferred, two and 67/100 feet; southerly by the southerly line of Providence Street as hereby transferred, thirty and 00/100 feet; easterly by the easterly line of Providence Street as hereby transferred, two and 67/100 feet; southerly by the southerly line of Providence Street as hereby transferred, three hundred forty-three and 26/100 feet; westerly by Clarendon Street, twenty-two and 00/100 feet; and northerly by the northerly line of Providence Street as hereby transferred, five hundred

forth-eight and 06/100 feet: containing eleven thousand nine hundred seventy-seven square feet more or less (the "Discontinued Portion of Providence Street").

2. The Property shown on a plan entitled "City of Boston, Public Works Department, Engineering Division, Discontinuance Plan, St. James Avenue, Boston Proper, January 9, 1984, Francis H. O'Rourke, Division Engineer," further described as the portion of St. James Avenue on the northerly side, from Berkeley Street to Clarendon Street, vertically below the sidewalk from elevation 12.50 to elevation 43.50; bounded easterly by Berkeley Street, ten and 00/100 feet; southerly by the southerly line of St. James Avenue as hereby transferred, five hundred forth-eight and 07/100 feet; westerly by Clarendon Street, ten and 00/100 feet; and northerly by the northerly line of St. James Avenue as hereby transferred, five hundred forth-eight and 07/100 feet: containing five thousand four hundred eighty-one square feet more or less (the "Discontinued Portion of St. James Avenue"); and

3. The Property shown on a plan entitled "City of Boston, Public Works Department, Engineering Division, Discontinuance Plan, Clarendon Street, Boston Proper, January 9, 1984, Francis H. O'Rourke, Division Engineer," further described as the portion of Clarendon Street on the easterly side, from St. James Avenue to Boylston

Street on the easterly side, from St. James Avenue to Boylston Street, vertically below the sidewalk from elevation 12.50 to elevation 43.50; bounded southerly by St. James Avenue, five and 00/100 feet; westerly by another portion of Clarendon Street, two hundred fifty-nine and 98/100 feet; northerly by Boylston Street, five and 00/100 feet; easterly by the easterly line of Clarendon Street as hereby transferred, one hundred twenty-five and 00/100 feet; again easterly by Providence Street as hereby transferred, twenty-two and 00/100 feet; and again easterly by the easterly line of Clarendon Street as hereby transferred, by two measurements, one hundred two and 98/100, and ten and 00/100 feet: containing one thousand three hundred square feet more or less.

BE IT FURTHER ORDERED: That minimum allocations for the Discontinued Ways from the total purchase price of the Garage Parcel and the Discontinued Ways be established as follows, it being understood that the total purchase price of $7,766,400 for the Garage Parcel and the Discontinued Ways includes payment in full for both the Garage Parcel and the Discontinued Way:

1) The Discontinued Portion of Providence Street - $600,000.00;
2) The Discontinued Portion of St. James Avenue - $40,000.00; and
3) The Discontinued Portion of Clarendon Street - $10,000.00

CITY OF BOSTON
IN CITY COUNCIL

BE IT FURTHER ORDERED; That the order transferring discontinued ways passed in the City Council on September 26, 1984 be and hereby is rescinded. And BE IT FURTHER ORDERED; That the attached memorandum be incorporated by reference hereto.

In City Council OCT 17 1984
Passed yeas thirteen
City Clerk
Approved OCT 19 1984
Mayor

Exhibit B

ST. JAMES (PUBLIC - 90' WIDE) AVENUE

BERKELEY (PUBLIC - 80' WIDE) STREET

CLARENDON (PUBLIC - 80' WIDE) STREET

BOYLSTON (PUBLIC - 80' WIDE) STREET

UNDERGROUND DISCONTINUANCE

S 69-44-51 W 548.07

322.34

LOT B
LOT AREA
5,241 ± m²
56,415 ± S.F.
1.295± AC.

n/f NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

LOT A
LOT AREA
7,486 ± m²
80,581 ± S.F.
1.850±AC.

n/f NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

4 STY CONC & BR GARAGE

S 20-15-51 E 249.96

N 20-15-00 W 249.97

N 20-15-31 W 249.98

DISCONTINUANCE

UNDERGROUND

UNREGISTERED REGISTERED

n/f THE DOUBLE B TRUST

n/f THE ERIN TRUST

n/f ELKINS FAMILY TRUST

n/f THE MILL DAM TRUST

n/f NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY CERT NO 73009 (1984)

BOSTON EDISON EASEMENT

7368/188 (1988)

6 STY METAL & GLASS

6 STY SANDSTONE

6 STY METAL

OPEN AT 2ND FLOOR

223.67

20.07

20.33

548.04

N 69-45-00 E

322.37

LEGEND

BCF BOTTOM CONC FOUNDATION
BR BACK
BS BOTTOM STONE
DLR DOOR
MON MONUMENT
SS SANDSTONE

I HEREBY CERTIFY THAT:

THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS

DATE

GUNTHER GREULICH, P.L.S.

500 BOYLSTON STREET

SUBDIVISION PLAN OF LAND

IN

BOSTON, MA

SUFFOLK COUNTY

SCALE: 1:240

JANUARY 1986

PRELIMINARY PRINT

SURVEY ENGINEERS OF BOSTON

PREPARED FOR NEW ENGLAND MUTUAL LIFE INS CO

G

23.10M

EXHIBIT C

Proposed Uses of Project Requiring Zoning Exceptions or Conditional Use Permits

Section 8-7
Use Item No.

34 Store primarily serving the retail business needs of the residents of the neighborhood, where merchandise is sold or displayed out of doors on the premises.

35 Department store, furniture store, general merchandise mart, or other store serving the general retail business needs of a major part of the city, including accessory storage, where merchandise is sold or displayed out of doors on the premises.

36A Sale over the counter . . . of on-premises prepared food or drink for off-premises consumption or for on-premises consumption if, as so sold, such food or drink is ready for take-out.

59 Parking garage.

61 Rental agency storing, servicing, and/or washing rental motor vehicles and trailers.

68 Manufacture or repair of various products, including, without limitation:

Cameras or other photographic equipment; electronic components and supplies; leather products, including shoes, machine belting, and the like; optical equipment, clocks, or similar precision instruments.

71 Any use on a lot adjacent to, or across the street from, but in the same district as, a lawful use to which it is ancillary and ordinarily incident and for which it would be a lawful accessory use if it were on the same lot; any such use on such a lot in another district.

72 As an accessory use, a garage or parking space for occupants, employees, customers, students and visitors.

EXHIBIT D

COOPERATION AGREEMENT

for

Planned Development Area No. 17

Bounded by Berkeley Street, Boylston Street,

Clarendon Street and St. James Avenue, Boston Proper

AGREEMENT made as of the 28th day of June, 1985, by and between the BOSTON REDEVELOPMENT AUTHORITY (the "Authority") and a joint venture of NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY and GERALD D. HINES INTERESTS, INC. (the "Applicant").

WITNESSETH, that in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. The Authority will petition the Zoning Commission of the City of Boston on behalf of the Applicant to designate as a Planned Development Area ("PDA") land in said City bounded by Boylston Street, Clarendon Street, St. James Avenue, and Berkeley Street (the "Locus").

2. The Applicant will cause the Locus to be developed in accordance with the Development Plan and Development Impact Project Plan for Planned Development Area No. 17 (the "Plan") approved by vote of the Authority on March 28, 1985 after notice and public hearing at its meeting held on September 27, 1984. A certified copy of said vote is attached hereto as Exhibit A together with a copy of said Plan.

3. The Applicant has contracted with John Burgee Architects with Philip Johnson or such associate architects that Applicant may designate ("Architect") to provide drawings and specifications for the project represented by this Plan.

4. The Applicant and the Authority hereby agree that the design review process required by the plan to be observed by the parties shall be as set forth in (a) "Design Review Procedures", BRA, March, 1984, and (b) Section 302 of the Sale and Construction Agreement (the "SCA") among the City of Boston, the Authority, and the Applicant ("Design Review Process").

5. The Authority acknowledges that the Applicant has heretofore by the submission of the approved Schematic Design of drawings dated May 1, and May 30, 1984, and by the signing hereof will have satisfied the first stage of the submissions required by the Design Review Process. The Authority further acknowledges that the Applicant has heretofore, by the submission of the Design Development plans dated May 1, 1985 and June 3, 1985, satisfied the second stage of the submissions required by the Design Review Process, subject to the matters set forth in the letter dated June 19, 1985 from Stephen Coyle to Kenneth Moczulski, a copy of which is attached hereto as Exhibit B.

6. The Applicant represents to the Authority that demolition and other preconstruction site work for the Western Component is scheduled to be completed within eight (8) months after the Condition Date (as defined in the SCA) and that construction in accordance with the Plan will require approximately twenty-seven (27) additional months for the Western Component. The Applicant further represents to the Authority that demolition and other preconstruction site work for the Eastern Component is scheduled to be completed no later than thirty (30) months after the commencement of construction of the Western Component and that construction in accordance with the Plan will require approximately twenty-four (24) additional months for the Eastern Component. Accordingly, subject to intervening circumstances which might arise (as provided for in the SCA), the Applicant expects that the Western Component of the Locus will be initially occupied and placed in operation

within thirty-five (35) months after the Condition Date and the Eastern Component will be placed in operation within sixty-two (62) months after the Condition Date.

7. The Authority will informally advise the Applicant concerning, and will actively cooperate with and publicly support, the Applicant's efforts to obtain from the appropriate municipal, state and federal bodies and agencies all such permits, licenses and approvals, and exceptions, variances, and other departures from the normal application of the applicable zoning and building codes and other ordinances and statutes which may be necessary in order to carry out development of the Locus in the most expeditious and reasonable manner.

8. Applicant agrees to establish and fund a study to be administered by the Authority to monitor the impact of the construction of the project pursuant to the Plan on immediately adjacent subsurface conditions and the St. James sewer line, subject to and in accordance with the following:

(a) The person or firm selected to conduct such study and the scope of services to be performed thereunder shall be subject to the approval of the Applicant, which approval shall not be unreasonably withheld (the "Study").

(b) The fee to be paid to the person or firm conducting the study shall be consistent with fees typically paid for such services in the City of Boston and shall not exceed, in the aggregate, $30,000.

(c) The Study shall consist of a thirty calendar (30) day review of contract drawings and specifications relevant to excavation and substructure, and the foundation contractor's shop drawings and other relevant substructure construction documents to determine if there exists significant risk to adjacent structures resulting from construction in accordance with the Plan, as well as field monitoring to review construction impacts on subsurface conditions.

(d) The Study will not delay construction pursuant to the Plan and this agreement, provided, however, that if the study indicates that construction of the project will create a significant risk to neighboring structures, the construction may be delayed or as required by the field monitoring in order that mitigating measures may be explored and utilized in construction by the BRA Board in accordance with paragraph 9.

(e) The study will assume that the design of the project will be as generally set forth in the Plan; the study will not duplicate any technical data already gathered by the Applicant, provided, however, that the person or firm selected to conduct such study shall be given access to all back-up information and materials pertaining to such data, and if such person or firm has reasonable justification to believe that any such data is inaccurate or does not meet professional standards of the geotechnical profession, such person or firm may make such additional tests as are reasonably necessary to verify the accuracy of such suspected inaccurate or unprofessional data.

9. The Applicant and the Authority agree that the St. James Avenue Garage Civic Advisory Committee (the "CAC") shall be entitled at the same time as the Study in Paragraph 8(c) to a 30-calendar day review of contract drawings and specifications relevant to excavation and substructure, and the foundation contractor's shop drawings and other relevant substructure construction documents to determine if there exists a significant risk to adjacent structures resulting from construction in accordance with the Plan. Should the CAC find such significant risk after reviewing such documentation (and/or the Study referred to in paragraph 8 hereof determines that there is significant risk), the Director may, within 15 days after the expiration of such 30-day period, transmit the recommendation of the CAC (and/or the Study), together with the Director's report thereon, to the BRA Board. The BRA

Board may then vote to delay construction as required for mitigation measures to be explored and utilized, and, provided that such vote is based upon reasonable justification including the documentation referred to in this paragraph and/or the study referred to in paragraph 8 hereof, such Board may do so without liability for damage to the Authority. If no action is taken by the BRA Board within 15 days after the expiration of the 30-calendar day review period referred to above, the recommendations of the CAC, the study and the Authority Director shall be deemed disapproved and development in accordance with the Plan may proceed, provided that a regularly scheduled meeting of the Authority occurs within that 15 day period.

10. Applicant and the Authority agree to jointly fund the study of the Back Bay Water Table described in an agreement dated January 16, 1984, between the Authority and Haley & Aldrich, Inc.; provided, however, that in accordance with such agreement, such commitment to fund shall not obligate the Applicant to expend more than $20,000 in connection with such study. The Authority hereby acknowledges payment by the Applicant of twenty thousand dollars ($20,000) towards the Back Bay Water Table Study, and the completion of such study.

11. Applicant will assume responsibility for repair and replacement to the St. James Avenue sewer and the St. James Avenue wood sheathing lines should any damage result from construction of 500 Boylston Street project.

12. Applicant agrees that all parking spaces in 500 Boylston Street will be made available for short-term parking on evenings, weekends, and holidays (as permitted by tenant parking agreements and Boston Air Pollution Control Commission Park Freeze Permit).

13. Applicant and Authority will commit to continue constructive dialogue with relevant civic groups to insure a resolution of a parking shortfall should the National Garage proposal not be implemented.

14. Applicant will plant street trees to provide wind mitigation as well as aesthetic and other microclimate benefits along the following streets:

- o the northwest corner of Clarendon and Boylston, if feasible.
- o the southern side of Boylston from Berkeley to Clarendon.
- o the western side of Berkeley from Boylston to St. James.
- o both sides of Clarendon from Boylston to St. James (subject to agreement with Trinity Church).
- o the northern side of St. James from Berkeley to Trinity Place (subject to agreement with Trinity Church).

The number, species, heights and calipers of the trees shall be reviewed and approved by the Authority. The Applicant will replace all adversely affected trees planted for wind mitigation purposes until the Covenant Expiration Date as defined in the SCA, unless otherwise agreed to by the Authority.

15. INTENTIONALLY OMITTED.

16. Applicant agrees to fund in an amount not to exceed $10,000 a program to stripe, re-sign, and complete signal modifications for streets in the vicinity of 500 Boylston Street, as specified by the Authority.

17. The Applicant agrees to fund work related to traffic mitigation measures necessary for the project, up to $20,000, as specified by the Authority after consultation with the CAC. It is hereby understood and agreed that such work shall not consider reversal of traffic on Charles Street as a mitigation measure to minimize the number of cars using Berkeley Street between Newbury Street and Storrow Drive. The Authority hereby acknowledges funding by the Applicant for such work in the amount of ($20,000).

18. If, in the future, the Applicant shall, in its reasonable judgement, determine that it has become infeasible to proceed with the whole or any

portion of the approved Plan, then in such case and after substantiation by the Applicant of the reasons for not being able to proceed, the Authority shall cooperate with the Applicant to modify, alter or amend its approval of the Plan in order to allow the Applicant the opportunity to reasonably develop the land that it owns. This shall not alter the remedies that may be available to the Authority under the SCA.

19. Reference is made to the fact that the Locus has in part been acquired from the City of Boston and is in its entirety to be developed and otherwise subject to the provisions of the SCA. It is specifically agreed that this Agreement and the SCA are intended to supplement each other. However, where ambiguities or inconsistencies exist, the SCA shall govern, except with respect to the provisions of paragraphs 8, 9, 11, 12, 13, 14, 15, 16, and 17.

20. This Agreement shall be binding upon the successors and assigns of the Applicant and the Authority.

IN WITNESS WHEREOF the parties have caused this instrument to be executed in their behalf by their respective officers and general partners thereunto duly authorized as of the day and year first above set forth.

BOSTON REDEVELOPMENT AUTHORITY

By: _____
Stephen Coyle, Director
Hereunto Duly Authorized

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

By: Copley Real Estate Advisors, Inc.,
Asset Manager and Advisor,
Hereunto Duly Authorized

By: _____

By: _____

GERALD D. HINES INTERESTS, INC.

By: _____

By: _____

BOSTON
REDEVELOPMENT
AUTHORITY

Stephen Coyle Director

One City Hall Square
Boston, MA 02201
(617) 722-4300

June 19, 1985

Mr. Kenneth Moczulski
Gerald D. Hines Interests
462 Boylston Street
Suite 302
Boston, MA 02116

Dear Mr. Moczulski

RE: 500 Boylston Street
Design Development Submission dated June 5, 1985

We have reviewed your Design Development submission and accompanying letter of June 5th. We are pleased to grant Design Development Approval subject to the resolution of several issues described below. This approval is based on the plans dated June 3, 1985, by John Burgee Architects with Philip Johnson, and titled, "500 Boylston Street." A list of dated drawings is enclosed to reference the record documents in our files.

We are pleased with the progress of the design over the last few months. The reintroduction of the scalloped entries, the rich paving patterns proposed for the courtyards, the resolution of parking entries and exits, and the recent changes proposed for the tower massing are all examples of the progress that has been made. We all see the context for New England Life's new headquarters as a unique opportunity. Boylston Street is an area where the scale of residential neighborhoods merges with larger scale insurance and office uses. Johnson/Burgee, Architects are well known for richly detailed buildings. For the new corporate headquarters for AT&T special attention was given to stonework details at the base, the pedestrian-level public realm of the building. In the setting of the Back Bay, between landmarks such as Trinity Church and the Berkeley Building, a special design balance is needed. We believe special efforts must be made to detail richly a building for this setting. There are two areas where, we believe, additional detail would aid the design

1. The exterior facades are a composition of shop windows and a long, expansive granite wall divided by pilasters. We believe it maybe desirable to make changes such as adding more solid granite details to the base of the pilasters, adding moulded window surrounds, adding cornice reveals, or adding moulded granite water tables to the base of the building. These are suggestions that may be helpful as you endeavor to refine the design.

2. We are very concerned that the faceted walls proposed for the corner scallops and the courtyards do not add the level of detail that was proposed earlier. As an important public space in the Back Bay, more expression of the curved surfaces would enhance the character of the courtyard spaces. An example of a Boston building with curved walls is One Liberty Square. New replacement windows were made for this building that set flat insulated glass in a curved framework. We suggest using faceted window frames for the scalloped corners and courtyard walls rather than flat wall planes for New England Life. To aid this transition we also suggest changing the upper window from an arch to a flat head thereby allowing curved surfaces to surround the windows. Your best efforts to add solid or molded granite details to the walls of the courtyards and exterior will complement the design and aid the transition of this new corporate headquarters into a setting surrounded by landmarks.

Absent a particular tenant, we agree that the specific design for the public passageway between the courtyards cannot be finalized. We would agree to stipulate that the design be completed after selection of a major tenant. We would, however, request the design be submitted for the passage within 30 days from the selecton of your major tenant. The minimum parameters for this space are outlined on the plans dated June 3, 1985.

We believe the site amenities proposed for this new development should relate the new and old New England Life Headquarters. Toward this objective we recommend street improvements that utilize the double acorn fixture on both sides of Boylston Street between Berkeley and Clarendon Streets. We have adopted this fixture as a standard for all new developments on Boylston Street.

As we have discuss previously, additional measures to mitigate street level winds are needed. Studies of canopies that extend as much as twelve feet over the sidewalk are also requested to mitigate winds and we feel that additional wind tunnel tests are still required. Canopies may also add detail to the long Boylston facade and express entrances to major retail.

The issues outlined above should be addressed prior to a final design approval by the Authority. My staff will be happy to meet with you to review these comments.

Sincerely,

Stephen Coyle
Director

Enclosures

SC/bas

Attachment A

Design Development: Conditional Approval

500 Boylston Street, Boston

Developer: Gerald D. Hines Interests
462 Boylston Street
Suite 302
Boston, MA 02116
Attention: Mr. Kenneth Moczulski

in a joint venture with:

New England Life
Copley Real Estate Advisors
535 Boylston Street
Attention: Mr. Michael Harrity

Architect: John Burgee Architects with Philip Johnson
375 Park Avenue
New York, NY 10152
Attention: Mr. Stephen Achilles

Sheet	Title	Date
1	Urban Context Plan	June 3, 1985
2	P-3 Level Plan	June 3, 1985
3	P-2 Level Plan	June 3, 1985
4	P-1 Level Plan	June 3, 1985
5	Ground Floor Plan-West	June 3, 1985
6	Ground Floor Plan-East	June 3, 1985
7	Floor 2 Plan	June 3, 1985
8	Floor 3 Plan	June 3, 1985
9	Floor 4-6 Plan	June 3, 1985
10	Floor 7-18 Plan and Core	June 3, 1985
11	Floor 19-25 Plan and Core	June 3, 1985
12	Roof Plan	June 3, 1985
13	Boylston Street Elevation	June 3, 1985
14	St. James Avenue Elevation Progress Print	June 3, 1985
15	Berkeley and Clarendon Streets Elevations	June 3, 1985
16	Building Longitudinal Section Progress Print	June 3, 1985
17	Building Cross Section	June 3, 1985
18	Top of Tower	June 3, 1985
19	Boylston Street Low-Rise Elevation	June 3, 1985
20	Plaza Elevations	June 3, 1985
21	Tower Elevation	June 3, 1985
22	Low-Rise Elevations	June 3, 1985
23	Fountain, Lantern, and Planter Details	June 3, 1985
24	Section Details	June 3, 1985
25	Typical Tower Plan Details	June 3, 1985

Sheet	Title	Date
26	Ground Floor Exterior Column Plan Details	June 3, 1985
27	Column Plan Details Floor 3-6 Exterior	June 3, 1985
28	Mechanical Penthouse Sections	June 3, 1985
29	Exterior Column Plan Details at Ground Floor	June 3, 1985
30	Curtainwall Sections	June 3, 1985
31	P-2 Level Framing	May 1, 1985
32	Ground Floor Framing	May 1, 1985
33	Second Floor Framing	May 1, 1985
34	4 thru 6 Floor Framing 1/16"	May 1, 1985
35	4 thru 6 Floor Framing 1/8"	May 1, 1985
36	8 thru 25 Floor Framing	May 1, 1985
37	Typical Low-Rise Floor	May 1, 1985
38	Typical Tower Floor	May 1, 1985
39	Berkeley/Clarendon Pedestrian Walkways	June 3, 1985

EXHIBIT E

BOSTON REDEVELOPMENT AUTHORITY

September 27, 1984

Revised March 28, 1985

DEVELOPMENT PLAN
and
DEVELOPMENT IMPACT PROJECT PLAN
for
PLANNED FOR DEVELOPMENT AREA NO. 17
Bounded by Berkeley Street, Boylston Street,
Clarendon Street and St. James Avenue, Boston Proper

Joint Venture of
New England Mutual Life Insurance Company
and
Gerald D. Hines Interests, Inc.

Developer: A joint venture of designees of New England Mutual Life Insurance Company and Gerald D. Hines Interests, Inc.

Architect: John Burgee Architects with Philip Johnson, New York, New York, or such associate architects as may be designated by the developer.

Location and Description of Site: A certain parcel of land bounded by Berkeley, Boylston, and Clarendon Streets and St. James Avenue, and containing 137,074 square feet, more or less, described in Exhibit I attached hereto, together with the fee title to the center lines of Berkeley Street, St. James Avenue and Clarendon Street, the discontinued portions of which are to be occupied by the foundation and possibly underground structure of the proposed development.

General Description of Proposed Development: The project will involve the construction of approximately 1,300,000 square feet of office and retail/commercial space in a building with twin office structures rising from a six-story low-rise base structure which covers the entire block except for two courtyards facing Boylston Street. The retail/commercial space will occupy the ground and second stories. Parking for approximately 1,000 vehicles will be provided on three levels below grade (625 public parking spaces and 375 tenant parking spaces).

Projected Number of Employees: It is anticipated that the project will generate approximately 3,000 construction-related jobs and approximately 5,000 permanent office and commercial jobs.

Development Impact Project Exaction: As required under Section 26-3 of the Boston Zoning Code, the developer will enter into a Development Impact Project Exaction Agreement with the Boston Redevelopment Authority and the Neighborhood Housing Trust, or if such Trust has not been established at the time of execution of such Agreement, with the Boston Redevelopment Authority acting on behalf of said Trust. The Development Impact Project Exaction shall be made as a Housing Payment Exaction, or as a Housing Creation Exaction which shall contribute to the creation of housing units for occupancy exclusively by low and moderate income residents of the City of Boston at a cost at least equal to the amount of the Housing Payment Exaction and under the conditions specified in said Agreement. If the developer elects to satisfy its exaction responsibility with respect to each component of the project through money payments, payments to said Trust or fiduciary shall be made in twelve (12) equal annual installments, the first installment due upon the first to occur of (i) the issuance of a certificate of occupancy for such component or (ii) twenty-four (24) months after the issuance of a building permit for such component. The annual payment shall be one-twelfth of $5.00 per square foot of gross floor area. The exaction will approximate a total of $6,000,000 for the project based upon a gross floor area of 1,300,000 square feet. If a building permit is not granted for any part of such component, or if construction of any part of such component is abandoned prior to the commencement of substantial construction (as defined in the Sale and Construction Agreement) after a building permit is obtained, or if for any reason a building permit for a component has lapsed prior to the commencement of substantial construction, then the developer shall have no responsibility for any Development Impact Project Exaction with respect to such component. (The foregoing shall apply to the eastern component notwithstanding that all or any portion of the eastern component Development Impact Project Exaction may have accrued prior to such event.)

Construction Schedule: Although the project will be developed in a single, continuous, sequential phase, either of the western or eastern components of the project may be financed independently of the other component and therefore may be considered as a separate zoning lot capable of being conveyed as such. The subdivision of the site which may be required in connection with such financing shall not require an amendment to this Planned Development Area/ Development Impact Project Plan (PDA/DIP Plan) provided that (i) the floor area ratio for the entire project will not exceed 9.5 and (ii) no exceptions are required from sections of the Boston Zoning Code not set forth in this Plan.

Permitted Uses: The uses to be permitted are listed in Exhibit II.

Proposed Location and Appearance of Structure: The location and appearance of the structure shall generally conform with the design development drawings prepared by John Burgee Architects with Philip Johnson listed in Exhibit III hereto. These plans are subject to further design review and refinement and are hereby incorporated into this PDA/DIP Plan.

Open Spaces and Landscaping: There are to be two courtyards fronting on Boylston Street, and sidewalk trees on Boylston Street, Berkeley Street, Clarendon Street, and St. James Avenue, both in general conformity with Drawing Nos. 1 and 5.

Density: The floor area ratio for the project shall not exceed 9.5. A table of floor area ratio calculations is attached as Exhibit IV.

Proposed Traffic Circulation: Vehicular access and egress for the site shall be provided by the four existing streets bounding the site. Access to the below-grade parking shall be from Clarendon Street and St. James Avenue; egress shall be to Berkeley Street and St. James Avenue; access and egress for the loading bays shall be from St. James Avenue.

Pedestrian access to the site will be primarily by the main entrance on Boylston Street. Pedestrian ways will connect all parts of the project with the surrounding streets. The twin lobbies of the office structures will be directly accessible from St. James Avenue.

Parking and Loading Facilities: Approximately 1,000 off-street parking spaces (including 625 public parking spaces and 375 tenant parking spaces) will be provided on three levels below grade. No less than six loading bays will be provided along St. James Avenue. The parking and loading facilities will be in general conformity with the facilities shown on Drawing Nos. 2 through 5.

Access to Public Transportation: The site is presently served by the MBTA Green Line at the Copley Square and Arlington Street stops (respectively, one block to the west and one block to the east of the site). An MBTA Orange Line stop to be located at the site of the Back Bay railroad station is presently under construction and is scheduled for completion in late 1986 or early 1987. This stop is located at the corner of Dartmouth and Buckingham Streets, approximately three blocks from the St. James Avenue side of the site. Commuter and inter-city rail service is provided to the site through a stop at the Back Bay railway station. Currently, only trains serving the Framingham branch pass through the

station; however, when the Southwest Corridor construction is completed, normal service to the Stoughton and Franklin branches is expected to be restored. Several MBTA bus routes terminate with a block of the site at Copley Square: Bus Route 302 (Watertown/Copley Express), Bus Route 310 (Needham/ Copley Express), Bus Route 315 (Roslindale/Copley Express), Bus Route 9 (City Point/Copley), and Bus Route 68 (Boston City Hospital/Copley) and by private commuter bus lines.

Proposed Dimensions of Structure: The dimensions of the structure will generally conform with the drawings listed in Exhibit III of this PDA/DIP Plan. Specifically, the building heights of the twin office structures shall not exceed 330 feet as measured to the top of the parapet (except for certain decorative features and a rounded mechanical penthouse on each tower structure), and the height of the six-story low-rise structure shall not exceed 87 feet (except for certain decorative features).

Design Review: Materials and treatment of the building facade, landscaping design, exterior signage and other items as specified in the Authority's "Design Review Procedures" will be subject to the Boston Redevelopment Authority's design review process.

Existing Zoning: The site is located in a B-8 zoning district and a restricted parking district.

Zoning Exceptions Required:

Section	Required in B-8 Zoning District	Provided for Project (approximate)
8-7 Conditional uses listed in Exhibit II*	-	-
15-1 Floor Area Ratio	8.0	9.5
21-1, 21-2(a) and(b) Setback of Parapet		

*Exception required.

Front		
towers	82 feet	133 feet
low-rise	82 feet	10 feet*
Side		
(Clarendon)		
tower	17.5 feet	31 feet
low-rise	0 feet	3 feet
(Berkeley)		
tower	7.5 feet	33 feet
low-rise	0 feet	4 feet
(between components)		
towers	47.5 feet	less than 47.5 feet for each tower*
low-rise		0 feet
Rear		
towers	80 feet	4.5 feet*
low-rise	98 feet	4.5 feet*
24-1 Off-Street Loading	13	6*

Exhibit I

Boylston/Berkeley/St. James/Clarendon Project
PDA/DIP Plan

Description of Premises

That certain parcel of land with the improvements thereon situated in Boston, Suffolk County, Massachusetts, bounded and described as follows:

NORTHERLY by Boylston Street, 548.17 feet;
EASTERLY by Berkeley Street, 249.96 feet;
SOUTHERLY by St. James Avenue, 548.06 feet; and
WESTERLY by Clarendon Street, 249.98 feet.

Containing, by estimation, about 137,074 square feet of land.

Also including the fee title to that portion of Providence Street included within such parcel and also including the fee title to the center lines of Berkeley Street, St. James Avenue and Clarendon Street, portions of which may be or have been discontinued below grade.

Exhibit II

Boylston/Berkeley/St. James/Clarendon Project
PDA/DIP Plan

Permitted Uses

Allowed Under Zoning Code:

30	Private Club (including quarters of fraternal organizations) operated for members only.
34	Store primarily serving the retail business needs of the residents of the neighborhood.
35	Department store, furniture store, general merchandise mart, or other store serving the general retail business needs of a major part of the city, including accessory storage.
37	Lunch room, restaurant, cafeteria or other place for the service or sale of food or drink for on-premises consumption.
38	Place for sale and consumption of food and beverages ... providing dancing or entertainment or both.
39	Office of accountant, architect, attorney, dentist, physician or other professional person.
39A	Clinic not accessory to a main use.
40	Real estate, insurance or other agency office.
41	Office building, post office, bank or similar establishment.
43	Barber shop; beauty shop; shoe repair shop; self-service laundry; pick-up and delivery station of laundry or dry cleaner, or similar use.
44	Tailor shop; hand laundry; dry-cleaning shop.
46	Caterer's establishment; photographer's studio...radio and television repair shop.

48 Research laboratory; radio or television studio.

Conditional Under Zoning Code:

34 Store primarily serving the retail business needs of the residents of the neighborhood, where merchandise is sold or displayed out of doors on the premises.

35 Department store, furniture store, general merchandise mart, or other store serving the general retail business needs of a major part of the city, including accessory storage, where merchandise is sold or displayed out of doors on the premises.

36A Sale over the counter...of on-premises prepared food or drink for off-premises consumption or for on-premises consumption if, as so sold, such food or drink is ready for take-out.

50 Drive-in bank, restaurant, or cafeteria or other place for the service or sale of on-premises or off-premises consumption, providing off-street parking facilities for its customers while doing business on the premises.

59 Parking garage.

61 Rental agency storing, servicing, and/or washing rental motor vehicles and trailers.

68 Repair of various products, including, without limitation:

Cameras or other photographic equipment; electronic components and supplies; leather products, including shoes, machine belting, and the like; optical equipment, clocks, or similar precision instruments.

71 Any use on a lot adjacent to, or across the street from, but in the same district as, a lawful use to which it is ancillary and ordinarily incident and for which it would be a lawful accessory use if it

were on the same lot; any such use on such a lot in another district.

72 As an accessory use, a garage or parking space for occupants, employees, customers, students and visitors.

Exhibit III

Boylston/Berkeley/St. James/Clarendon Project
PDA/DIP Plan

Plan List

Drawing No.	Title	Date
1	Urban Context	January 28, 1985
2	P-3 Level	January 28, 1985
3	P-2 Level	January 28, 1985
4	P-1 Level	January 28, 1985
5	Ground Floor	January 28, 1985
6	Second Floor	January 28, 1985
7	3rd Floor Plan	January 28, 1985
8	Floors 4-6	January 28, 1985
9	Floors 7-18	January 28, 1985
10	Floors 19-25	January 28, 1985
11	Roof Plan	January 28, 1985
12	Boylston Street Elevation	January 28, 1985
13	St. James Street Elevation	January 28, 1985
14	Clarendon Street Elevation	January 28, 1985
15	Building Longitudinal Section	January 28, 1985
16	Building Cross Section	January 28, 1985
17	Tower Elevation	January 28, 1985
18	Section Details	January 28, 1985
19	Typical Tower Plan Details	January 28, 1985
20	P-2 Level Framing	January 28, 1985
21	Ground Floor Framing	January 16, 1985
22	Second Floor Framing	January 28, 1985
23	4 thru 6 Floor Framing 1/16"	January 28, 1985
24	4 thru 6 Floor Framing 1/8"	January 28, 1985
25	8 thru 25 Floor Framing	January 28, 1985
26	Typical Low-Rise Floor	January 28, 1985
27	Typical Tower Floor	January 28, 1985
28	Boylston Street Low-Rise Elevation	March 1, 1985
29	St. James Avenue Elevation	March 1, 1985
30	Clarendon Low-Rise Elevation	March 1, 1985
31	Exterior Column Plan Details at Ground Floor	March 1, 1985
32	Curtainwall Sections	March 1, 1985

Exhibit IV

Boylston/Berkeley/St. James/Clarendon Project
PDA/DIP Plan

Floor Area Ratio Calculations

	GROSS FLOOR AREA*	FLOOR AREA EXCLUSIONS*	FLOOR AREA FOR FAR PURPOSES*
Ground Floor	84,700.8	676.0	84,024.8
Floor 2	70.228.6	3,524.2	66,704.4
Floor 3	88,037.12	4,058.9	83,978.22
Floor 4	94,039.12	4,058.9	89,980.22
Floor 5	94,039.12	4,058.9	89,980.22
Floor 6	94,039.12	4,058.9	89,980.22
PODIUM TOTAL:	525,083.88	20,435.8	504,648.08
Floor 7	44,448.0	3,729.0	40,719.0
Floor 8	44,136.0	3,729.0	40,407.0
Floor 9	44,448.0	3,729.0	40,719.0
Floor 10	44,136.0	3,111.0	41,025.0
Floor 11	44,448.0	3,111.0	41,337.0
Floor 12	44,136.0	3,111.0	41,025.0
Floor 13	44,448.0	3,111.0	41,337.0
Floor 14	44,136.0	3,111.0	41,025.0
Floor 15	44,448.0	3,111.0	41,337.0
Floor 16	44,136.0	3,111.0	41,025.0
Floor 17	44,448.0	3,111.0	41,337.0
Floor 18	44,136.0	3,111.0	41,025.0
Floor 19	44,448.0	3,111.0	41,337.0
Floor 20	44,136.0	2,003.0	42,133.0
Floor 21	44,448.0	2,003.0	42,445.0
Floor 22	44,136.0	2,003.0	42,133.0
Floor 23	44,448.0	2,003.0	42,445.0
Floor 24	44,136.0	2,003.0	42,133.0
Floor 25	44,448.0	2,003.0	42,445.0
TOWER TOTAL:	841,704.0	54,315.0	787,389.0
BUILDING TOTAL:	1,366,787.88	74,750.8	1,292,037.08

Lot Area = 137,074 FAR = $\frac{1,292,037.08}{137,074}$ = approximately 9.5

*Areas shown are approximations.

EXHIBIT F

DEVELOPMENT IMPACT PROJECT AGREEMENT

for

Planned for Development Area No. 17

bounded by Berkeley Street, Boylston Street,

Clarendon Street and St. James Avenue, Boston Proper

THIS AGREEMENT dated as of June 28, 1985, among the BOSTON REDEVELOPMENT AUTHORITY ("BRA"), the NEIGHBORHOOD HOUSING TRUST hereafter to be created, and the joint venture of NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY, a Massachusetts corporation and GERALD D. HINES INTERESTS, INC., a Texas corporation ("Joint Venture").

W I T N E S S E T H:

WHEREAS, the Joint Venture proposes to construct a mixed-use development project including office, retail, and commercial uses and a below-grade parking facility ("Project") to be located on premises bounded by Berkeley Street, Boylston Street, Clarendon Street, and St. James Avenue, Ward 3, City Proper ("Premises ");

WHEREAS, the Premises include the St. James Avenue Garage site and related land including discontinued street areas presently owned by the City of Boston;

WHEREAS, the Joint Venture, the City of Boston acting by and through its Public Facilities Commission, and the BRA have entered into a Sale and Construction Agreement dated as of June 30, 1984 ("Sale and Construction Agreement") and Section 1001(b) of the Sale and Construction Agreement

contemplates the execution of this Agreement (terms and phrases used herein and defined in the Sale and Construction Agreement shall have the definitions attributed thereto in the Sale and Construction Agreement);

WHEREAS, the BRA has tentatively designated the Joint Venture as redeveloper of the St. James Avenue Garage site and related land and the City Council of the City of Boston has transferred the care, custody, management, and control of the St. James Avenue Garage and related land to the Public Facilities Commission for conveyance to the Joint Venture pursuant to votes taken by the BRA on December 8, 1983, the Real Property Board on December 9, 1983, the Public Facilities Commission on December 12, 1983, and August 23, 1984, and the City Council on April 18, 1984, and the Sale and Construction Agreement among the City of Boston, BRA and Joint Venture approved by the Public Facilities Commission on August 23, 1984, and the BRA on August 29, 1984;

WHEREAS, the terms and conditions of the Joint Venture's tentative designation as redeveloper provide that the Project shall comply with the "linkage" policies of the City of Boston;

WHEREAS, the linkage policies of the City of Boston have been incorporated in Article 26 of the Boston Zoning Code (the "Zoning Code") by Text Amendment No. 73, which became effective on December 29, 1983;

WHEREAS, in order to facilitate the development of the Project, the Joint Venture has applied to the BRA for designation of the Premises as a Planned Development Area ("PDA") pursuant to Section 3-1A of the Zoning Code;

WHEREAS, pursuant to the Joint Venture's application for designation of the Premises as a PDA and in accordance with Article 26 of the Zoning Code, the BRA has approved on March 28, 1985, after notice and public hearing held on September 27, 1984, a PDA/DIP Plan authorizing exceptions under

Section 6A-1 of the Zoning Code from those provisions of the Zoning Code as are required for development of the Project and has petitioned the Boston Zoning Commission to change the zoning of the Premises from a B-8 to a B-8-D zoning district; and

WHEREAS, the Neighborhood Housing Trust referred to in Article 26 of the Zoning Code, as amended, has not yet been created;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. The Joint Venture will cause the Premises to be developed in accordance with the PDA/DIP Plan and the terms of the Sale and Construction Agreement.

2. The Joint Venture shall be responsible, in accordance with the terms of this Agreement, for a Development Impact Project Exaction, as such term is presently defined in Section 26-2(3) of the Zoning Code, in the amounts set forth in Section 3 of this Agreement. The Joint Venture may, at its option, satisfy its obligation for the Development Impact Project Exaction, in whole or in part, by payment in accordance with Section 5 of this Agreement, or by contributing to the creation of housing units for occupancy exclusively by low and moderate income residents of the City of Boston in accordance with Section 6 of this Agreement.

3. Although the Premises will be developed in a single, continuous, sequential phase, it is anticipated that construction of the western component ("Western Component") will commence and a building permit will be issued approximately twenty-seven (27) months before the commencement of construction of and issuance of a building permit for the eastern component ("Eastern Component"). The Development Impact Project Exaction shall be paid separately for the Western Component and the Eastern Component. Liability arising

under this Agreement in connection with a particular component shall be limited to the interest of the Joint Venture in such component. In illustration, but not in limitation of the foregoing, if separate successors to the Joint Venture own each of the Western and Eastern Components in accordance with and as contemplated by the Sale and Construction Agreement, then the owner of the Western Component shall have no liability for the Development Impact Project Exaction for the Eastern Component and vice versa. The Development Impact Project Exaction for the Western Component, containing approximately 725,000 square feet, shall be Three Million One Hundred Twenty-Five Thousand Dollars ($3,125,000). The Development Impact Project Exaction for the Eastern Component, containing approximately 575,000 square feet, shall be Two Million Eight Hundred Seventy-Five Thousand Dollars ($2,875,000). The parties acknowledge that the amounts of the Development Impact Project Exaction stated above have been based upon areas for the Components stated in the Sale and Construction Agreement. The parties further acknowledge that the Development Impact Project Exaction for the Western Component is based upon a Housing Payment Exaction of $5.00 for each square foot of gross floor area in excess of 100,000 square feet of such component, whereas the Development Impact Project Exaction for the Eastern Component is based upon a Housing Payment Exaction of $5.00 for each square foot of the entire gross floor area of such Component. If the Gross Floor Area, as defined in Section 2-1(21) of the Zoning Code and as certified by the Project Architect, for either or both of the Components differs from the schematic building area for such Component set forth in the Sale and Construction Agreement, this Agreement shall be amended to adjust the amount of the Development Impact Project Exaction in accordance with Article 26 of the Boston Zoning Code.

4. The "Payment Date" for each Component shall be the earlier of the issuance of a Certificate of Occupancy or twenty-four (24) months after the granting of a Building Permit with respect to the entirety of such Component. If a Building Permit is not granted for any part of such Component, or if construction of any part of such Component is abandoned prior to the commencement of substantial construction (as defined in the Sale and Construction Agreement) after a Building Permit is obtained, or if for any reason a Building Permit for a Component has lapsed prior to the commencement of substantial construction, then the Joint Venture shall have no responsibility for any Development Impact Project Exaction with respect to such Component. (The foregoing shall apply to the Eastern Component notwithstanding that all or any portion of the Eastern Component Development Impact Project Exaction may have accrued prior to such event.)

5. If the Joint Venture shall elect to satisfy the responsibility for the Development Impact Project Exaction by money payments for either or both of the Components, then the Development Impact Project Exaction shall be paid to the City of Boston acting by and through the Neighborhood Housing Trust, or if such Trust has not been created, then to the BRA in twelve (12) equal annual payments.

With respect to the Western Component, the first installment of the Development Impact Project Exaction shall be due and payable on the Payment Date for the Western Component, and subsequent installments shall be due and payable without interest on the following eleven (11) anniversary dates of the Payment Date for the Western Component, all payments to be made where and otherwise as instructed by the BRA.

With respect to the Eastern Component, the first such installment of the Development Impact Project Exaction shall accrue on the earlier of the Payment Date for the Eastern Component or four (4) years after the Condition Date (as defined in the Sale and Construction Agreement) and subsequent installments shall accrue on the following eleven (11) anniversaries thereof. Notwithstanding the accrual of such installments (together with interest as provided below), such amounts shall not be payable until the Payment Date for the Eastern Component, at which time all accrued installments and interest accrued thereon shall be due and payable. Installments accruing on or after the Payment Date for the Eastern Component shall be due and payable as and when accrued, without interest. Accrued installments shall accrue simple interest through the Payment Date for the Eastern Component at rates determined from time to time as being equal to the lowest interest rate payable, from time to time, by the City of Boston on any borrowed funds. Notwithstanding the foregoing, the Joint Venture shall receive a credit against any interest due on installments accrued before the Payment Date for the Eastern Component in a sum equal to the amount by which the Joint Venture's contribution to the fund for the redesign of Copley Square exceeds $300,000.00.

6. If the Joint Venture shall elect to contribute to the creation of housing units for occupancy exclusively by low and moderate income residents of the City of Boston with respect to either or both of the Components, the Joint Venture shall submit a proposal in writing to the BRA on or before the Payment Date for the Component in question, describing the number, location, cost, and design of the housing units. The proposal shall be subject to approval by the BRA after public notice and hearing.

7. Any payments made by the Joint Venture pursuant to Section 5, and the cost of any contribution to the creation of housing units by the Joint Venture pursuant to Section 6, shall be credited against any amounts due in connection with the particular Component to the Neighborhood Housing Trust on account of any neighborhood impact excise which may be assessed by the City of Boston.

8. The BRA agrees that the Joint Venture and its successors in interest shall be liable for breaches of obligations under this Agreement with respect to a particular Component only while the Joint Venture or any successor in interest, as the case may be, is owner of the Component in question. The BRA further agrees to look solely to the interest in the Component in question of the Joint Venture or its successors, as the case may be, for any claim against the Joint Venture or any successor arising under this Agreement in connection with such Component. Neither the Joint Venture nor any trustee, beneficiary, partner, manager, agent, or employee of the Joint Venture (or its successors and assigns) shall ever be personally or individually liable; nor shall it or they ever be answerable or liable in any equitable proceeding or order beyond the extent of its or their interest in the Project.

9. The BRA hereby agrees that, subject to recalculation provided in Section 3 of this Agreement, any recalculation of the rate of the Housing Payment Exaction as set forth in Section 26-3(2)(c) of the Zoning Code and otherwise shall not in any way increase the Housing Payment Exaction set forth in this Agreement.

10. The BRA acknowledges that by the signing of this Agreement, the Joint Venture will have satisfied the requirements of Section 26-3(2) of the Zoning Code insofar as satisfaction of the requirements of that Section is a

precondition to the granting, allowing, or adopting of a variance, conditional use permit, exception, or zoning map or text amendment with respect to the Joint Venture's development of the Premises.

11. If the parties desire hereafter to amend this Agreement, such agreement shall be written and executed by the parties hereto.

12. This Agreement shall be considered under Massachusetts law, sets forth the entire agreement among the parties, may be amended or modified only by a writing signed by all parties, and is binding upon and inures to the benefit of the parties and their successors, assigns, and legal representatives, notwithstanding any subsequent amendment or repeal (or court decision having the effect of amendment or repeal) to or of the "linkage policies" of the City as incorporated in Article 26 of the Boston Zoning Code.

13. The Joint Venture will formulate a Voluntary Employment Opportunity Plan which will provide for the Joint venture's good faith efforts to achieve a goal that 50% of the employment opportunitites created by the Project will be made available to Boston residents.

14. It is specifically agreed by the parties that this Agreement and the Sale and Construction Agreement are intended to supplement each other. However, where ambiguities or inconsistencies exist, the provisions of the Sale and Construction Agreement shall prevail and the terms of this Agreement shall, to the extent necessary, be of no effect.

BOSTON REDEVELOPMENT AUTHORITY

By: _____
Stephen Coyle, Director
Hereunto duly authorized

NEW ENGLAND MUTUAL LIFE
INSURANCE COMPANY

By: Copley Real Estate Advisors, Inc.,
Asset Manager and Advisor,
hereunto duly authorized

By: _____

By: _____

GERALD D. HINES INTERESTS, INC.

By: _____

By: _____

Interests, Inc. (together, the "Developer") dated as of June 30, 1984 (the "Sale and Construction Agreement"), the Eastern Component will provide parking for approximately 597 vehicles. Of those 597 spaces, 15 will be designated for short-term public use, 285 will be designated as Public Monthly Spaces, and 297 will be designated for tenants of the Project. Of the 285 Public Monthly Spaces, 20 will be designated Car Pool Spaces.

If construction of the Eastern Component is not commenced in accordance with the Sale and Construction Agreement, until such commencement of construction, the Developer agrees to provide an outdoor surface level parking facility including approximately 125 public parking spaces on the Eastern Component site. The ratio of Public Monthly and Car Pool Spaces to short-term spaces, will be mutually agreed upon by the BRA and the Developer.

Although this letter agreement anticipates the provision of a total of 1270 parking spaces if and when both the Western Component and Eastern Component parking facilities are completed, the Planned Development Area Plan (the "PDA") for the Project currently permits a total of only 1000 parking spaces. In the event the PDA is not successfully amended to allow for an additional 270 spaces, the allocation of spaces will be revised as follows. Parking for approximately 600 vehicles will be provided in the Western Component, with the total number of spaces designated for public uses to remain unchanged and the total number of spaces designated for tenants of the Project to be reduced by 73 spaces to a total of 275 spaces. Parking for approximately 400 vehicles will be provided in the Eastern Component, with the total number of spaces designated for public uses to remain unchanged and the total number of spaces designated for tenants of the Project to be reduced by 197 spaces to a total of 100 spaces.

In both the Western Component and the Eastern Component, parking will be provided on three levels located below grade. During construction of the Western Component, no fewer than 75 public spaces for short-term hourly or daily use will be provided on the site of or within three blocks of the Project.

In order to market the Public Monthly Spaces to the public, the undersigned intend to undertake reasonable public advertising of the availability of such spaces and, prior to the opening of the parking facility in the Western Component and the Eastern Component, to place an appropriate exterior sign on the applicable component site indicating the availability of such spaces. After the opening of the parking facility in the Western Component, a sign shall be maintained within the parking facility indicating the availability of monthly parking spaces in the Project. Public Monthly Spaces will be allocated based upon a "lottery style"

allocation system no less than 3 months after the opening of the parking facility in the Western Component and the Eastern Component. Rates for the Public Monthly Spaces will be equal to that charged to tenants of the Project for the parking spaces designated for their use as such rates may be adjusted.

In the event all public monthly parking spaces are rented, the undersigned intends to keep a waiting list of parties desiring Public Monthly Spaces. As the Spaces become available, they will be offered to parties on the waiting list.

Approximately one year after the completion of the Eastern Component, the Developer and the BRA agree to discuss utilization of the parking facilities.

Every three years the utilization of all public parking spaces will be reviewed. If spaces designated for short-term hours or daily use have not been utilized during periods of the year of the most intensive parking use or Public Monthly Spaces have not been utilized on a reasonably regular basis during the preceding three-year period, an appropriate number of such spaces will be converted to tenant use with your approval, which approval is not to be unreasonably withheld or delayed.

When the Western Component parking facility is completed and in operation, a short-term parking program will be initiated, which will require that at least 100 of the public short-term spaces remain unoccupied during normal business days until 9:30 a.m. The completion of the Eastern Component parking facility shall in no event require an increase in the number of spaces that must remain unoccupied. It is agreed and understood that the purpose of this provision is not to keep spaces unnecessarily vacant, but rather to improve service to users of the Project parking facility.

The Project parking facility will also provide additional conveniences for owners of vehicles of the neighborhoods surrounding the Project site displaying "residential parking stickers." In particular, such vehicles shall be allowed access to the Project parking facility during major snow emergencies to the extent spaces are available and, pursuant to a plan to be developed with input from the BRA and residential community representatives, shall be allowed to park on nights and weekends in the Project parking facility, during the facility's standard hours of operation, at special rates.

Upon completion of both the Western Component and the Eastern Component, the facility shall be treated as a single parking facility for purposes of allocation of spaces between public and tenant uses. The total number of spaces allocated to each use, however, shall continue in accordance with this letter agreement.

Kindly acknowledge your approval of the foregoing by signing and returning the enclosed copy of this letter.

Very truly yours,

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

By: Copley Real Estate Advisors, Inc.
Asset Manager and Advisor,
hereunto duly authorized

By: _____

GERALD D. HINES INTERESTS, INC.

By: _____

Consented to this 19th day
of December, 1985

BOSTON REDEVELOPMENT AUTHORITY

By: _____
Stephen F. Coyle, Director

Gerald D. Hines Interests 462 Boylston Street, Suite 302 Boston, Massachusetts 02116 Area Code 617 236-0096

December 19, 1985

Mr. Mitchell Fischman
Boston Redevelopment Authority
City Hall Plaza
Boston, Massachusetts 02108

RE: Western Component
500 Boylston Street
Boston Residents Construction Employment Plan

Dear Mitch:

Pursuant to your discussions with Brian Fallon of this date, we hereby agree to the following changes to the Bond Bros./Dugan & Meyers, Joint Venture letter of October 17, 1985:

1. Insert in the first line of the first paragraph after the word acknowledges, "that it is contractually bound to fulfill the requirements of"

2. Under the Subcontractors heading, paragraph no. 2, change the reference of monthly reports to weekly.

3. Under the Subcontractors heading, paragraph no. 3, insert in line two after the word subcontractor the following: "and the BRA Compliance Office".

4. Add the following sentence to the last paragraph: "We understand that the above outlined program is acceptable as a preliminary employment plan and commits to work with the BRA to complete a final plan in the near future".

We understand that with these changes the Boston Residents Construction Employment Plan for the Western Component is agreeable and acceptable to the BRA.

Very truly yours,

Kenneth S. Moczulski

Agreed and Acknowledged this
19th day of December, 1985

By: _____

OCT 18 1985

BOND BROS./

Bond Bros./Dugan & Meyers, A Joint Venture

October 17, 1985

Gerald D. Hines Interests
462 Boylston Street
Boston, Massachusetts 02116

Attn: Andrew Stallings

Gentlemen:

Bond Bros./Dugan & Meyers, Joint Venture, acknowledges the Mayors Executive Order extending the Boston Residents Job Policy Plan and commits to an effort, in good faith, to encourage compliance by Bond Bro./Dugan & Meyers, Joint Venture, our subcontractors and participating building trades. We intend to accomplish this by the following efforts:

Subcontractors

1. Include the Mayors Executive Order as part of our standard subcontract agreement.

2. Require each subcontractor to submit monthly reports identifying compliance on a trade basis. (See attached proposed format)

3. Follow up each non-complying report with correspondence to the subcontractor identifying areas of non-compliance and requiring response as to the action the subcontractor shall take to comply.

Building Trades

1. Advise all building trades, by letter, that the project is operating under the auspices of the Mayors Exexcutive Order and ask their cooperation in providing the designated quotes.

2. In the event the building trades are unable to comply, Bond Bros./Dugan & Meyers will seek compliance by attempting to hire through other sources, subject to the terms and conditions of labor agreements.

11110 Kenwood Road
Cincinnati, Ohio 45242-1863
(513) 891-4300

Andrew Stallings
Gerald D. Hines Interests

In addition to the above, we are informing the State Office of Minority Business Assistance and the Contractors Association of Boston Inc. of the subcontractor bid dates to encourage minority business enterprise participation. The latter shall receive plans and specifications in order to assist subcontractors in preparation of their bids.

We trust that the outlined program is acceptable and that our continued mutual efforts will lead to a successful project in terms of conformance with the Mayors Executive Order. If you have any comments or questions, please contact the undersigned.

Sincerely,

BOND BROS./DUGAN & MEYERS,
JOINT VENTURE

Anthony J. Cotter
Project Manager

BOSTON RESIDENTS CONSTRUCTION EMPLOYMENT PLAN

MONTHLY EMPLOYMENT UTILIZATION REPORT

NAME AND LOCATION OF CONTRACTOR:

REPORTING PERIOD
FROM: _____
TO: _____

PROJECT: FIVE HUNDRED BOYLSTON STREET
OWNER: NEW ENGLAND LIFE & GERALD D. HINES INTERESTS
CONTRACTOR: BOND BROS./DUGAN & MEYERS - A JOINT VENTURE

CURRENT GOALS

BOSTON RES.	50%
MINORITY	25%
FEMALE	10%

WORK HOURS OF EMPLOYMENT

CONSTRUCTION TRADE	CLASSIFICATIONS	TOTAL ALL EMPLOYEES BY TRADE	BOSTON RESIDENTS	MINORITIES	FEMALE	RESIDENT PERCENTAGE	MINORITY PERCENTAGE	FEMALE PERCENTAGE
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
TOTAL JOURNEY WORKERS								
TOTAL APPRENTICES								
TOTAL TRAINEES								
GRAND TOTAL								

COMPANY OFFICIAL'S SIGNATURE AND TITLE | TELEPHONE NUMBER (Include area code) | DATE SIGNED

EXHIBIT H-2

Gerald D. Hines Interests 482 Boylston Street, Suite 302 Boston, Massachusetts 02116 Area Code 617 236-0096

December 11, 1985

Ms. Susan Allen
Boston Redevelopment Authority
Ninth Floor
Boston City Hall
Boston, MA 02201

RE: Approval of Western Component General Contractor

Dear Susan:

Pursuant to Section 101 Paragraph L of the Sales and Construction Agreement between the Joint Venture and the City of Boston, we are writing to obtain the approval of the Authority of our selection of our General Contractor for the Western Component.

We have selected a Joint Venture of Bond Brothers and Dugan and Meyers. Enclosed is some background literature on both firms. Bond Brothers is a local contractor based in Everett, Massachusetts and Dugan and Meyers is based in Cincinnati. The Hines Interests has a long and established working relationship with Dugan and Meyers. They have built such projects as the Hartford Steam and Boiler Building in Hartford, Central Trust Center in Cincinnati, The Huntington Bank Center in Columbus, and the Southeast Financial Center in Miami. These projects range in size from approximately 400,000 square feet of office space up to 1 million square feet. We have total confidence in this Joint Venture's capability to undertake the construction of the Western Component.

In order to comply with the terms of the Sales and Construction Agreement to provide us with the Authority's written approval we would ask that the Authority counter sign one copy of this letter and return it to us for our records. If you should have any questions or require additional information, please feel free to contact me.

Very truly yours,

Kenneth S. Moczulski

KSM:jba
KSM12105D
Attachments
cc: B. Fallon
M. Harrity
E. Ross

Approved this 19th day of December, 1985 by the Boston Redevelopment Authority

EXHIBIT 1

QUITCLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, that the CITY OF BOSTON, acting by and through its Public Facilities Commission (hereinafter referred to as "Grantor") for Seven Million Seven Hundred Sixty-Six Thousand Four Hundred and 00/100 Dollars ($7,766,400.00) consideration paid, grants to NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY, a mutual life insurance company with its principal place of business at 501 Boylston Street, Boston, Massachusetts (hereinafter referred to as "Grantee"), the three tracts of land (all of which together are hereinafter referred to as the "Premises") described as follows with QUITCLAIM COVENANTS:

First Tract:

Parcel 1

A parcel of land supposed to have belonged to The First National Bank of Boston, being Parcel 1 on the plan of taking, hereinafter referred to, bounded and described as follows:

Southeasterly by St. James Ave., 264.79 feet;

Southwesterly by land now or formerly of Harry B. Golden, 100 feet;

Northwesterly by Providence St., 264.92 feet;

Northeasterly by Berkeley St., 100 feet.

Containing 26,485 square feet of land, more or less.

Parcel 2

A parcel of land supposed to have belonged to Harry B. Golden, being Parcel 2 on plan of taking, hereinafter referred to, bounded and described as follows:

Southeasterly by St. James Ave., 25.12 feet;

Southwesterly by other land of Harry B. Golden, 100 feet;

Northwesterly by Providence St., 25.06 feet;

Northeasterly by Parcel 1, hereinbefore referred to, 100 feet.

Containing 2,509 square feet of land, more or less.

Parcel 3

A parcel of land supposed to have belonged to Harry B. Golden, being Parcel 3 on plan of taking, hereinafter referred to, bounded and described as follows:

Southeasterly by St. James Ave., 22.68 feet;

Southwesterly by land now or formerly of N. Winthrop Robinson and Charles D. Cross, Trs.,, 100. feet;

Northwesterly by Providence St., 22.92 feet;

Northeasterly by Parcel 2, hereinbefore referred to, 100 feet.

Containing 2,280 square feet of land, more or less.

Parcel 4

A parcel of land supposed to have belonged to N. Winthrop Robinson and Charles D. Crosby, Trustees, being Parcel 4 on the plan of taking, hereinafter referred to, bounded and described as follows:

Southeasterly by St. James Ave., 22.51 feet;

Southwesterly by land now or formerly of M. Ahern Co., 100 feet;

Northwesterly by Providence St., 22.51 feet;

Northeasterly by Parcel 3, hereinbefore referred to, 100 feet.

Containing 2,251 square feet of land, more or less.

Parcel 5

A parcel of land supposed to have belonged to M. Ahern Co., being Parcel 5 on plan of taking, hereinafter referred to, bounded and described as follows:

Southeasterly by St. James Ave., 24.13 feet;

Southwesterly by land now or formerly of Darwin E. Gardner and Charles S. Gardner, 100 feet;

Northwesterly by Providence St., 24.13 feet;

Northeasterly by Parcel 4, hereinbefore referred to, 100 feet.

Containing 2,413 square feet of land, more or less.

Parcel 6

A parcel of land supposed to have belonged to Darwin E. Gardner and Charles S. Gardner, being Parcel 6 on plan of taking, hereinafter referred to, bounded and described as follows:

Southeasterly by St. James Ave., 23.89 feet;

Southwesterly by land now or formerly of The Personal Book Shop, Inc., 100 feet;

Northwesterly by Providence St., 23.89 feet;

Northeasterly by Parcel 5, hereinbefore referred to, 100 feet.

Containing 2,389 square feet of land, more or less.

Parcel 7

A parcel of land supposed to have belonged to The Personal Book Shop, Inc., being Parcel 7 on plan of taking, hereinafter referred to, bounded and described as follows:

Southeasterly by St. James Ave., 22.70 feet;

Southwesterly by land now or formerly of 500 Boylston St., Inc., 100 feet;

Northwesterly by Providence St., 22.23 feet;

Northeasterly by Providence St., by Parcel 6, hereinbefore referred to, 100 feet.

Containing 2,247 square feet of land, more or less.

Parcel 8

A parcel of land supposed to have belonged to 506 Boylston St., Inc. being Parcel 8 on plan of taking, hereinafter referred to, bounded and described as follows:

Southeasterly by St. James Ave., 142.35 feet;

Southwesterly by Clarendon St., 100 feet;

Northwesterly by Providence St., 142.50 feet;

Northwesterly by Parcel 7, hereinbefore referred to, 100 feet.

Containing 14,243 square feet of land, more or less.

The above-described parcels of land and all of said measurements are shown on a plan marked "Plan showing land taken for Off-Street Parking Facilities, under authority of Acts of the Legislature, Chapter 474 of 1946 and Chapter 79 of the General Laws", "City of Boston, Berkeley St., St. James Ave., Clarendon St., Providence St., Boston Proper, November 16, 1950, James W. Haley, Chief Engineer, Street Laying-Out Department," being Engineering Division Plan K-344.

SECOND TRACT:

A certain parcel of land bounded and described as follows:

Northwesterly by Providence St., 548.16 feet;

Northeasterly by Berkeley St., 3 feet;

Southeasterly by land of the City of Boston, 548.16 feet;

Southwesterly by Clarendon St., 3 feet.

The above-described parcel of land, together with the location and dimensions thereof, is shown on a plan marked "City of Boston, Providence St., Boston Proper, Dec. 15, 1951, James W. Haley, Chief Engineer, Street Laying-Out Department" on file in said department, being Engineering Division Plan L-8215.

Both of the above Tracts are shown as one parcel on a plan marked "City of Boston, Berkeley St., Clarendon St., Providence St., St. James Ave., Boston Proper, Feb. 27, 1953, James W. Haley, Chief Engineer, Street Laying-Out Department," being Engineering Division Plan K-487.

THIRD TRACT

The property shown as the Discontinued Area of Providence Street on a plan entitled "City of Boston - Public Works Dept. Engineering Division, Discontinuance Plan, Providence Street, Boston Proper" dated October 26, 1983 and prepared by Survey Engineers of Boston, bounded and described as follows:

Northeasterly by land now or formerly of New England Mutual Life Insurance Company, The Mill Dam Trust, the Erin Trust and The Old Sod Trust, 548.06 feet;

Southeasterly by Berkeley Street, 22.00 feet;

Southwesterly by land now or formerly of the City of Boston conveyed herein to Grantees, 174.80 feet;

Northwesterly by said land of the City of Boston, 2.67 feet;

Southwesterly by said land of the City of Boston, 30.00 feet;

Southeasterly by said land of the City of Boston, 2.67 feet;

Southwesterly by said land of the City of Boston, 343.26 feet;

Northwesterly by Clarendon Street, 22.00 feet.

Containing 11,977 square feet of land, more or less.

Meaning and intending to include in the Premises conveyed to Grantee, fee title to the land lying between the bounds of the Tracts described above which run along Berkeley Street, St. James Avenue, and Clarendon Street and the intersecting center lines of Berkeley Street, St. James Avenue and Clarendon Street.

The Premises are conveyed together with all improvements thereon, and together with all rights, privileges and appurtenances thereto. The Grantor acknowledges that there has been full compliance by Grantee with the provisions of M.G.L. c. 44,-§63A, as amended by section 1 of chapter 72 of the Acts of 1983.

Title References for the First and Second Tracts: Order of Taking dated December 21, 1950 and recorded with Suffolk Deeds in Book 6664, Page 484 and Order of Taking dated February 25, 1953 and recorded with said Deeds in Book 6854, Page 502. Title

Reference for the Third Tract: Deed from Edmund Wright and others dated August 3, 1883 and recorded with said Deeds in Book 1696, Page 506.

EXECUTED as a sealed instrument this 25th day of June, 1985.

APPROVED AS TO FORM:

Corporation Counsel
City of Boston

CITY OF BOSTON, acting by and through its PUBLIC FACILITIES COMMISION

By James F. Hart
Director

APPROVED

Raymond L. Flynn
Mayor of Boston

COMMONWEALTH OF MASSACHUSETTS

County of Suffolk June 28, 1985

Then personally appeared the above-named Raymond L. Flynn, Mayor, and James F. Hart, Director of the Public Facilities Commission, and acknowledged the foregoing instrument to be their free act and deed and the free act and deed of the City of Boston.

Before me,

Lori B. Golden
Notary Public
My commission expires: Jan. 5, 1990

EXHIBIT I-1

DESIGN REVIEW PROCEDURES

DEVELOPMENT APPROVAL PROCESS

THE DESIGN REVIEW PROCEDURE FOR DEVELOPER'S ARCHITECTURAL SUBMISSIONS TO THE BOSTON REDEVELOPMENT AUTHORITY

DESIGN REVIEW PROCEDURES

CITY OF BOSTON
Raymond L. Flynn, Mayor

BOSTON REDEVELOPMENT AUTHORITY
Robert L. Farrell, Chairman
Joseph J. Walsh, Vice-Chairman
James K. Flaherty, Treasurer
Clarence J. Jones, Vice-Treasurer
William A. McDermott, Jr., Member
Kane Simonian, Secretary
Robert J. Ryan, Director

UD2/J/040984

BOSTON REDEVELOPMENT AUTHORITY DESIGN REVIEW PROCEDURE

All development proposals submitted to the Boston Redevelopment Authority will be subject to design review and approval. Required submissions shall be made at four stages of project design and construction: Schematic Design, Design Development, Contract Documents, and Construction Inspection. Submissions shall include the materials described herein, except that for projects of limited size, scope and impact on their surroundings, certain of the required materials may be waived by the Authority. This determination will be made at the start of each stage of the Design Review Procedure.

In addition to the four-stage Design Review Procedure, other reviews at the request of either the developer or the Authority are encouraged. It is also expected that reasonable requests for progress prints and other materials in addition to those required herein will be met at any time.

Review of Stages 2, 3 and 4 will be limited to consideration of design refinements, new elements not present in previous submissions, and conformity with previously approved submissions.

NOTE: In addition to design review and approval, projects under consideration by the Boston Redevelopment Authority are usually required to submit documentation of developer experience, financial information including pro-formas and any other information deemed appropriate by the Authority.

UD2/J/040984

DESCRIPTION OF SUBMISSION REQUIREMENTS

All drawings shall be clearly identified and shall include north arrow and graphic scale.

For each submission stage, in addition to full-size scale drawings, please provide three copies of a bound booklet containing all submission materials at a reduced size.

I. SCHEMATIC DESIGN

The intent of this review is to secure agreement on the basic design concept. The following materials are required:

A. Written description of the project including all program elements and space allocation for each element; zoning requirements and preliminary zoning calculations.

B. Neighborhood plan and sections at an appropriate scale (1" = 50' or larger) showing relationships of the proposal to the neighborhood's massing, building height, scaling elements, open space, major topographic features, pedestrian and vehicular circulation, and land use; black and white 8" x 10" photographs of the site and neighborhood.

C. Site plan at an appropriate scale (1" = 20' or larger) showing:

1. General relationships of proposed and existing adjacent buildings and open space. Open spaces defined by buildings on adjacent parcels and across streets shall be included.

2. General location of pedestrian ways, driveways, parking, service areas, streets, and major landscape features.

3. Pedestrian and vehicular (including service) access and flow through the parcel and to adjacent areas.

4. Survey information, such as existing elevations, benchmarks, utilities, etc.

5. Current ownership (including purchase options) of all portions of the development site.

6. Phasing possibilities, if any.

7. Construction limits, if applicable.

D. Site sections (1" = 20' or larger) showing relationships to adjacent buildings and spaces.

E. Schematic building plans showing ground floor and typical upper floor(s).

F. Massing model at 1" = 100' for use in the Authority's downtown cityscape model.

G. Shadow studies showing the effects of the proposed massing on the surrounding area with particular attention to nearby public spaces including sidewalks, parks, and plazas.

Submission of site plan and massing options, as well as other sketches and diagrams which will help clarify design issues and the proposed solution is encouraged. After review and agreement on the program, site plan and massing, the following materials are required:

H. Building and site improvement plans, elevations in the context of the surrounding area, and sections showing organization of functions and spaces, all at an appropriate scale (e.g., 1" = 8'). These drawings shall describe architectural massing, facade design, and proposed materials.

I. Site model at an appropriate scale (1" = 20' or larger). All nearby buildings and streets should be included to illustrate the relationship of proportions, materials and facade treatment to the surrounding buildings.

J. Wind impact studies at pedestrian levels describing the effect of the project on the surrounding area with particular attention to nearby public spaces including sidewalks, parks, and plazas.

K. Estimated construction schedule for the project.

L. Eye-level perspective showing the proposal in context of the surrounding area.

M. Proposed schedule for submission of Design Development materials.

Upon approval by the Authority of the SCHEMATIC DESIGN, the following submission is required:

II. DESIGN DEVELOPMENT

The intent of this review is to secure agreement on the final design prior to detailed work on Contract Documents. The following materials are required:

A. Written description of the project (including all program elements and space allocation for each element) and zoning calculations.

B. Site plan at an appropriate scale (e.g., 1" = 16' or as determined after approval of SCHEMATIC DESIGN) showing:

1. Relationship of proposed building and open space to existing adjacent buildings, open spaces, streets, and buildings and open spaces across streets.

2. Proposed site improvements and amenities including paving, landscaping, lighting and street furniture.

3. Building and site dimensions, including setbacks and other dimensions subject to zoning requirements.

4. Any site improvements or areas proposed to be developed by some other party (including identification of responsible party).

5. Proposed site grading, including typical existing and proposed grades at parcel lines.

C. Site sections at an appropriate scale (e.g., 1" = 16' or as determined after approval of SCHEMATIC DESIGN).

D. Building plans (including preliminary structural and mechanical drawings), sections and elevations at an appropriate scale (e.g., 1" = 8') developed from approved schematic design drawings. Elevations shall show the project in the context of the surrounding area as required by the Authority to illustrate relationships of character, scale and materials. All plans, sections and elevations shall reflect the impact of proposed structural and mechanical systems on the appearance of exterior facades, interior public spaces, and roofscape.

E. Large-scale (e.g., 3/4" = 1'-0") typical exterior wall sections, elevations and details sufficient to describe specific architectural components and methods of their assembly.

F. Outline Specifications of all materials for site improvements, exterior facades, roofscape, and interior public spaces.

G. Study model at an appropriate scale (e.g., 1" = 16', or as determined after approval of SCHEMATIC DESIGN) showing refinements of facade design.

H. Eye-level perspective drawings showing the project in the context of the surrounding area.

I. Proposed schedule for submission of Contract Documents.

Upon approval by the Authority of the DESIGN.DEVELOPMENT, the following submission is required:

III. CONTRACT DOCUMENTS

The intent of this review is to secure agreement on the detailed design of the proposal. The following materials are required:

A. Written description of the project, (including all program elements and space allocation for each element) and zoning calculations.

B. Site plan showing all site development and landscape details for lighting, paving, planting, street furniture, utilities, grading, drainage, access, service, and parking.

C. Complete architectural and engineering Drawings and Specifications.

D. Full-size assemblies (at the project site) of exterior materials and details of construction.

E. Eye-level perspective drawings or presentation model that accurately represents the project, and a rendered site plan showing all adjacent existing and proposed structures, streets and site improvements.

F. Site and building plan at 1" = 100' for Authority use in updating its 1" = 100' Photogrammetric Map Sheets.

G. Construction schedule for the project.

During preparation of the Contract Documents, it is the developer's responsibility to notify the Authority, promptly and secure its approval of all changes from the approved Design Development Drawings that are contemplated for site improvements, exterior facades, roofscape and interior public spaces. Progress Drawings representing 50% completion of the Contract Documents may be required for review by the Authority.

Upon approval by the Authority of the CONTRACT DOCUMENTS, the following submissions are required:

IV. CONSTRUCTION INSPECTION

A. All Contract Addenda, Change Orders, and other modifications and revisions of approved Contract Documents which affect site improvements, exterior facades, roofscape, and interior public spaces.

B. Shop drawings of architectural components which differ from, or were not fully described in Contract Documents.

Site visits will be conducted to insure construction of the project in accordance the approved Contract Documents.

EXHIBIT J DECEMBER 8, 1983

TERMS AND CONDITIONS FOR TENTATIVE DEVELOPER DESIGNATION OF ST. JAMES AVENUE GARAGE PARCELS

1. CIVIC REVIEW PROCESS
The Authority will use good faith efforts to implement the attached December 6, 19 Resolution of the St. James Avenue Civic Advisory Committee, which is thereby made a part of these Terms and Conditions.

2. DISPOSITION PRICE
A disposition price of $7,766,400 will be paid to the City upon the conveyance of the garage parcel and underlying fee of Providence Street as described in the Development and Design Guidelines for the St. James Avenue Garage Parcel

3. BUILDING BULK
The maximum floor area ratio as defined in the Boston Zoning Code shall not exceed 9.5 on the overall development site and shall not exceed 1,300,000 square feet of gross floor area including 100,000 square feet of retail space.

4. BUILDING HEIGHT
The height shall not exceed 90 feet to the top of the parapet along Boylston Street and shall not exceed 345 feet to the top of the parapet on the St. James Avenue Garage Parcel.

5. BUILDING SETBACK
A minimum building setback line of 25 feet along Boylston Street and 15 feet along St. James Avenue, Berkeley Street and Clarendon Street shall be provided except for minor projections of decorative architectural details.

6. USES
Proposed retail space along Boylston Street should comprise no less than 100,000 square feet of gross floor area in the first and second floors.

7. OFF-STREET PARKING
The Authority requires that the underground parking garage contain 1,000 spaces of which a minimum of 625 are considered public parking spaces. No fewer than 315 public spaces shall be designated for short-term "In-Out" daily use and the balance of the 625 spaces shall be publicly marketed in accordance with a management plan which must receive prior approval of the Director.

8. OFF-STREET LOADING
The feasibility of enclosed loading docks along St. James Avenue should be further reviewed with the Authority.

9. CONSTRUCTION PHASING
The Authority requires that total construction of the project be completed in a single phase.

10. STABILITY OR STRUCTURES
The Authority requires the developer to establish and fund an Authority sponsored monitoring and review of the impact of the proposed design and construction on subsurface conditions and the St. James Avenue sewer line.

11. IMPACTS ON WATER TABLE
The Authority and developer will jointly fund an independent study of the Back Bay Water Table prior to final developer designation.

12. ENVIRONMENTAL IMPACT REPORT

The Authority shall require the submission of a broadly scoped Environmental Impact Report which is consistent with the requirements of M.G.L.c. 30, S62-62H and this requirement shall also be communicated to the Massachusetts Secretary of Executive Office of Environmental Affairs.

13. DESIGN REVIEW PROCESS

The Authority requires submission of design drawings for review and approval at three phases in the design review process in accordance with submission requirements normally followed by the architectural profession and the Authority:

a. Schematic Design Drawings and other design studies in accordance with the December 6, 1983 Resolution of the St. James Avenue Civic Advisory Committee;

b. Design Development Drawings and Outline Specifications; and

c. Working Drawings and Final Specifications.

This design review process will include Authority review and approval of all exterior materials and all materials located in interior spaces accessible to the public and shall include review and approval of all changes from the approved drawings that may occur during the construction period.

14. LINKAGE

The developer shall comply with the linkage policies as presented in the report of the Advisory Group on Linkage Between Downtown Development and Neighborhood Housing, issued on October 14, 1983.

15. REAL ESTATE TAXES

Real estate taxes for the new development will be paid according to normal City of Boston Chapter 59 Assessing Department practices.

RESOLUTION OF THE
ST. JAMES AVENUE CIVIC ADVISORY COMMITTEE
December 6, 1983

The St. James Avenue Civic Advisory Committee passed unanimously by voice vote the following resolution:

WHEREAS Robert J. Ryan, Director of the Boston Redevelopment Authority ("BRA") notified the St. James Avenue Civic Advisory Committee ("CAC") on November 16, 1983 of his proposed recommendations to the Board of Directors of the BRA (the "Board"); and

WHEREAS the CAC under its contract with the BRA has the opportunity to consider the Director's conclusions and render comments for consideration by the Director and the Board;

WHEREAS the citizen's review process to date has resulted in significant contributions in project concepts beneficial to the neighborhood, the business community, and the city at large, and expects that the ongoing review will help balance the legitimate neighborhood, commercial, design and developer interests; and

WHEREAS the proposed St. James Avenue Garage project is in close proximity to residential areas and historic buildings, its appearance and function have more direct impact on citizens of Boston than any of the other garage properties being sold by the City;

NOW, THEREFORE,

Be it resolved that the CAC:

1. Supports tentative designation of Hines/NEL as developer of the St. James Avenue Garage and the proposed disposition of the St. James Avenue Garage and of that portion of Providence Street between Berkeley and Clarendon Streets;

2. Supports the Director's recommendations to his Board. However, the CAC requests that Hines/NEL study and provide designs which reduce the building height while serving its needs of function and marketability. Also, the CAC understands that setback lines referred to by the Director's recommendations refer to building lines, as opposed to glass lines;

3. Requests that the contract between the BRA and the CAC, dated June 8, 1983 be amended in the following respects:

   a. to add the Ellis Neighborhood Association, Inc. as a CAC member and party to the contract;

   b. to extend the term of the contract to December 31, 1986; and

   c. to provide that the contract shall be binding upon and inure to the benefit of the BRA, the CAC and its members, and each of their successors and assigns;

   and that such amendments be approved by the Board at its next meeting;

4. Notifies all parties that the CAC as yet has reviewed the Project only with respect to fundamental issues which relate to no specific design. It is now necessary to review and comment on the specific proposed design in detail, including but not limited to massing, style, loading dock location and parking access. The CAC expects to be given sufficient time to carefully review design and function of the specific plans in dialogue with the BRA. This review will require a period of 45 days, commencing on the date of submission to the CAC of plans conforming with the design controls. This review may be extended if substantial changes in proposed design are submitted during this period;

5. Supports the Developer's desire to promptly enter the PDA zoning process upon completion of design review as described in paragraph 4, above;

6. Recognizes that continued development at currently allowed densities would cause changes, if not sensitively controlled, that may damage surrounding neighborhoods. The CAC recommends that the appropriate city agencies, in cooperation with appropriate civic groups, study a new comprehensive zoning plan including review of the feasibility of downzoning for the Back Bay commercial area. Since such zoning was last reviewed, several large scale projects are likely to be completed by 1987 which will nearly double the commercial activity in the area. It is appropriate to systematically study the effects of such concentrated growth to recommend changes, if any, to promote the goals of enhancing the liveability and mixed income makeup of the neighborhoods and enhancing the small scale retail shops and businesses on Newbury Street which give the street its special character. The CAC strongly urges the completion of such a study prior to approval of additional large scale projects in the Back Bay commercial area;

7. Requires that the Environmental Impact Review include the effects of the additional parking proposal for the National Garage;

8. Requests that consideration be afforded tenants displaced by the Project ~~such that they are~~ permitted to remain in their premises as long as practicable; and

9. Requires as a condition of its endorsement of the Director's recommendations that the Director support this resolution and urges the Board to adopt the statements herein as policy.

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY
501 Boylston Street
Boston, MA 02117

and

GERALD D. HINES INTERESTS, INC.
462 Boylston Street
Boston, MA 02116

December 19, 1985

CITY OF BOSTON
Boston City Hall
One City Hall Square
Boston, MA 02201

BOSTON REDEVELOPMENT AUTHORITY
Boston City Hall
One City Hall Square
Boston, MA 02201

Ladies and Gentlemen:

This letter sets forth the agreement among the joint venture of New England Mutual Life Insurance Company and Gerald D. Hines Interests, Inc. (the "Joint Venture"), the City of Boston (the "City") and the Boston Redevelopment Authority (the "Authority") regarding the development of each of the western component (the "Western Component") and the eastern component (the "Eastern Component") of the 500 Boylston Street project, as each such Component is defined in the Amended and Restated Sale and Construction Agreement to be entered into by and among the Joint Venture, the City acting by and through the Public Facilities Commission and the Authority.

The Joint Venture, the City and the Authority hereby acknowledge and agree that as of the date hereof, the Authority has granted the Joint Venture "final design approval" in accordance with its vote of June 27, 1985 with respect to the Western Component in order to enable the Joint Venture to obtain a building permit for the Western Component and to expedite the commencement and prosecution of construction thereof. It is understood and agreed that the term "final design approval" as set forth in the Authority's June 27, 1985 vote is synonymous with the certifications required by Sections 3-1A and 26-3.2(d) of the Boston Zoning Code.

In consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Joint Venture, the City and the Authority hereby agree as follows:

1. Notwithstanding the approvals for the Eastern Component granted by the Authority, the City and the Commonwealth of Massachusetts, the Joint Venture and the Authority agree to institute the following process with respect to the Eastern Component:

a. The Director of the Authority will establish a five-member advisory panel (the "Design Advisory Panel" or "DAP") to suggest revised design criteria for the Eastern Component and to make observations and recommendations to the Joint Venture and the Authority regarding the drawings for the Eastern Component prepared by the Joint Venture in response to such revised design criteria. The DAP shall have no authority to review or to make observations or recommendations regarding the Western Component. The DAP will be comprised of one representative from each of the Authority, the Joint Venture, the Neighborhood Association of the Back Bay and the Boston Society of Architects and a fifth member to be appointed no later than March 15, 1986 by a majority of the other four members, which majority shall include the Joint Venture. In the event a representative of either or both of the Neighborhood Association of the Back Bay and the Boston Society of Architects fails or is unable to serve as a member of the DAP, the Authority and the Joint Venture shall appoint an alternate member. After March 15, 1986, the Director of the Authority may, at any time, appoint a fifth member to the DAP, provided that if, at any time after March 15, 1986, the DAP includes at least four members, it shall perform its functions as set forth in this Agreement without a fifth member.

b. The DAP shall review the Eastern Component as set forth in the Design Development Drawing Submittal transmitted to the Authority on June 5, 1985 (the "Approved Eastern Component Plans") and shall, on or before May 15, 1986, make written observations and recommendations to the Joint Venture regarding the appropriateness of the Approved Eastern Component Plans for the Eastern Component site. In the event the DAP recommends proceeding with the Approved Eastern Component Plans, the Joint Venture shall promptly proceed with its application to the Authority for final design approval with respect to the Eastern Component.

c. In the event the DAP determines to proceed with a study of alternative design criteria for the Eastern Component, it shall, on or before July 15, 1986, make written observations and recommendations to the Joint Venture regarding proposed revised design criteria for the Eastern Component. The components of such revised design criteria shall be:

i. Floor area ratio as defined in Section 2-1(20) of the Boston Zoning Code shall be 8.0 for the Eastern Component, provided that in no event shall gross floor area as defined in Section 2-1(21) of the Boston Zoning Code be less than 481,133 square feet for the Eastern Component.

ii. Feasibility of retaining the Colton Building at 462 Boylston Street.

iii. Building envelope restrictions for the Eastern Component such as height, yard and parapet setback restrictions.

iv. Vehicular access and egress routes for the Eastern Component.

v. Suggested exterior building materials for the Eastern Component.

vi. Alternate uses of the Eastern Component or portions thereof.

d. Within 120 days after receipt of the DAP's observations and recommendations regarding revised design criteria for the Eastern Component, the Joint Venture shall determine whether to proceed with the preparation of plans conforming with the revised design criteria. In the event the Joint Venture determines not to proceed with the preparation of such plans, it will promptly proceed with its application to the Authority for final design approval with respect to the Eastern Component. In the event the Joint Venture determines to proceed with plans conforming with the revised design criteria, it shall follow a process identical to the Design Review Process set forth in the Sale and Construction Agreement with respect to such plans, provided that copies of all schematic design submissions to the Authority pursuant to such Design Review Process shall simultaneously be delivered to the DAP. It is hereby understood and agreed that the DAP's role and function shall terminate upon approval by the Authority's Director of

revised schematic design submissions for the Eastern Component. The DAP shall act solely in an advisory capacity in reviewing such submissions and may, in its discretion, make written observations and recommendations to the Joint Venture regarding the plans prepared to conform with the revised design criteria for the Eastern Component. Notwithstanding the foregoing, review by the DAP of the Joint Venture's schematic design submissions pursuant to the Design Review Process shall not in any way extend the time periods set forth in the Sale and Construction Agreement for review of such submissions made in accordance with the Design Review Process, it being understood and agreed that the DAP's principal function shall be to suggest revised design criteria for the Eastern Component and that its secondary function shall be to comment upon schematic design submissions made in accordance with such criteria.

e. In the event the Joint Venture elects to proceed with a design proposal for the Eastern Component other than that set forth on the Approved Eastern Component Plans, the Joint Venture will apply to the Authority and the Zoning Commission of the City to amend the Planned Development Area/Development Impact Project Plan (the "PDA/DIP Plan") for Planned Development Area No. 17 as necessary to permit the development of the Eastern Component in accordance with such design proposal. It is understood and agreed that the Director and the staff of the Authority shall submit a memorandum to the Authority's Board recommending approval of such amendment at the earliest possible date but in no event later than 30 days after the Joint Venture's application therefor provided that the following requirements are satisfied:

i. Approval by the Authority's staff of the Schematic Design submission for the revised Eastern Component.

ii. Preparation by the Joint Venture of shadow, wind, traffic and subsurface studies for the revised Eastern Component (subsurface studies to be performed if the excavation for the revised Eastern Component exceeds 45 feet) which do not show an effect which is materially greater than that indicated by studies conducted for the Authority in connection with the Approved Eastern Component Plans.

If such amendment is approved, the Joint Venture will apply to the Board of Appeal of the City for whatever zoning exceptions or conditional use permits as are deemed necessary or desirable by its counsel to permit the development of the Eastern Component in accordance with the revised drawings therefor.

f. If, for any reason whatsoever, including, without limitation, those set forth above, the Joint Venture determines not to, or is unable to, proceed with revised plans for the Eastern Component, the Joint Venture shall, no later than the time when it determines that it must obtain the approvals necessary to comply with the provisions of the Sale and Construction Agreement and other documentation requiring the continuous and sequential development of the Western and Eastern Components and the provisions of Section 6A-1 of the Boston Zoning Code regarding the duration of zoning exceptions, apply to the Authority for final design approval with respect to the Approved Eastern Component Plans and within 30 days thereafter, the Authority shall either grant or deny such final design approval.

g. In the event the Authority denies the Joint Venture's application for final design approval for the Approved Eastern Component Plans as set forth in Paragraph f. above, the Joint Venture shall apply for and the Authority shall fully cooperate with the Joint Venture to grant within 30 days after receipt of such application, and to petition the Zoning Commission to grant within 15 days thereafter, an amendment to the PDA/DIP Plan (and all other documentation ancillary thereto) to eliminate the Eastern Component from such Plan and to restrict such Plan to the Western Component so that:

i. the approvals granted for the development, construction and use of the Western Component remain in full force and effect and unaffected by any failure or determination not to construct the Eastern Component in accordance with the PDA/DIP Plan; and

ii. the Joint Venture is free to develop the Eastern Component site in accordance with the provisions of the Boston Zoning Code.

h. The Director and the staff of the Authority and the City agree to advise the Joint Venture concerning, and will actively cooperate with and publicly support, the Joint Venture's efforts to develop the Eastern Component site and

to assure the continued validity and enforceability of the permits and approvals granted for the Western Component site in accordance with this Section 1, and in connection therewith, to actively cooperate with and publicly support, the Joint Venture's efforts to obtain from the appropriate municipal and state bodies and agencies all such permits, licenses and approvals as may be necessary or desirable in order to carry out the development of the Eastern Component and the Western Component in the most expeditious and reasonable manner, including, without limitation, approval of an amendment to the PDA/DIP Plan by the Authority and the Boston Zoning Commission and granting of exceptions, conditional use permits or variances by the Board of Appeal.

It is the intention of the parties that the changes to the Approved Eastern Component Plans which may be made by the Joint Venture as a result of the process set forth in this Paragraph 1 shall not require the Joint Venture to perform additional environmental studies for any city or state agency except as set forth in Subparagraph 1.e.ii above.

i. It is the understanding of the parties hereto that no change in the zoning requirements applicable to the Back Bay, Boylston Street, or any portion thereof, shall effect in any way either the Western Component or the Eastern Component.

2. The agreements of the Joint Venture set forth in Paragraph 1 above are expressly conditioned upon execution of the following documentation and granting of the following approvals by the Authority which counsel to the Joint Venture considers necessary in connection with the prompt commencement, prosecution of construction and use of the Western Component.

a. Execution of an Amended and Restated Sale and Construction Agreement with respect to the Western Component and the Eastern Component among the Authority, the City and the Joint Venture to be considered by the Board of the Authority and executed by the Authority no later than January 9, 1986, the major terms of which are set forth in the memorandum attached hereto as Exhibit A, which has been reviewed and approved by the Director of the Authority.

b. The following documentation which has been executed by the Director of the Authority and, where appropriate, the Joint Venture:

i. Letter approving wind studies submitted by the Joint Venture on December 5, 1985 in response to the letter dated June 21, 1985 from Stephen Coyle to Kenneth S. Moczulski as such studies relate to the Western Component, a copy of which signed letter is attached hereto as Exhibit B.

ii. Parking Management Plan with respect to the Western Component and the Eastern Component, a copy of which Plan executed by the Authority and the Joint Venture is attached hereto as Exhibit C.

iii. Traffic Management Plan with respect to the Western Component and the Eastern Component, a copy of which Plan executed by the Authority and the Joint Venture is attached hereto as Exhibit D.

iv. Approval of the General Contractor for the Western Component by countersignature of the letter submitted by the Joint Venture on December 11, 1985, a copy of which countersigned letter is attached hereto as Exhibit E.

c. The Director of the Authority hereby grants the Joint Venture the following approvals with respect to the Western Component (all of which are preconditions to obtaining a valid building permit for the Western Component) and this Agreement constitutes the Director's certification of such approvals:

i. Certification of compliance of the Contract Documents for the Western Component with the PDA/DIP Plan in accordance with Section 3-1A of the Boston Zoning Code.

ii. Certification that the Western Component has been subject to design review and that the Joint Venture has entered into a Development Impact Project Agreement dated June 28, 1985 in accordance with Section 26-3 of the Boston Zoning Code.

iii. Certification that the Joint Venture has complied with the Mayor's Executive Order dated July 12, 1985 Extending the Boston Residents Job Policy. The Joint Venture has submitted a plan regarding hiring of women, minority and Boston resident workers in connection with the construction of the Western Component, a copy of which is attached hereto as Exhibit F, which Plan, the Authority acknowledges, complies with the requirements of such Executive Order.

d. The Director and the staff of the Authority agree to advise the Joint Venture concerning, and will actively cooperate with and publicly support, the Joint Venture's efforts to obtain from the appropriate municipal and state bodies and agencies all such permits, licenses and approvals which may be necessary or desirable in order to carry out the development of the Western Component in the most expeditious and reasonable manner.

3. The agreements of the Joint Venture set forth in Paragraph 1 above are expressly conditioned upon the active cooperation and public support by the City of the Joint Venture's efforts to obtain from the appropriate municipal and state bodies and agencies all such permits, licenses and approvals which may be necessary or desirable in order to carry out the development of the Western Component in the most expeditious and reasonable manner. Such active cooperation and public support by the City will include assistance by the City in the Joint Venture's pursuing of the following permits and approvals for the Western Component on or about the dates indicated (which dates are subject to the Joint Venture's submission of the necessary applications in a timely manner):

a. All approvals to be granted by the Authority for the Western Component as set forth in Paragraph 2 above.

b. Demolition permit for the Western Component from the Inspectional Services Department -- December 19, 1985.

c. Building permit for the Western Component from the Inspectional Services Department -- December 31, 1985.

d. Parking garage permit and fuel storage license for the Western Component from the Public Safety Commission, Committee on Licenses -- December 31, 1985.

e. Parking freeze permit for the Western Component from the Boston Air Pollution Control Commission -- January 30, 1986.

f. Approval of construction within 100 feet of a park from the Parks and Recreation Commission -- December 31, 1985.

g. Curb cut permit for the Western Component from the Public Works Department -- December 31, 1985.

4. The City and the Director and staff of the Authority agree to advise the Joint Venture concerning, and will actively cooperate with and publicly support, the Joint Venture's proposed application to the Authority and the Boston Zoning Commission for an amendment to the PDA/DIP Plan to (i) permit parking for an aggregate of approximately 1270 vehicles in the Western Component and the Eastern Component (instead of the 1000 presently permitted under the PDA/DIP Plan), it being currently contemplated that parking for approximately 673 vehicles shall be provided in the Western Component and that parking for approximately 597 vehicles shall be provided in the Eastern Component, and (ii) permit trade, professional or other schools and/or a car wash to be located in the Western Component or the Eastern Component. The parties recognize that at its meeting on August 26, 1985, the Zoning Commission voted to strongly support the addition of 270 parking spaces to the project.

This agreement shall be binding upon the City, the Authority and the Joint Venture and their successors and assigns.

Executed as a sealed instrument by the Joint Venture, the Authority and the City as of the day and year first above written.

Very truly yours,

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

By: Copley Real Estate Advisors, Inc.,
Asset Manager and Advisor, hereunto
duly authorized

By: _____
Name:
Title:

GERALD D. HINES INTERESTS, INC.

By: _____
Name:
Title:

Agreed to as of the day
and year first above written:

CITY OF BOSTON

By:_____
Raymond L. Flynn
Mayor

BOSTON REDEVELOPMENT AUTHORITY

By:_____
Stephen Coyle
Director

EXHIBIT A

MEMORANDUM

From:	Hale and Dorr
Project:	500 Boylston Street
Re:	Revisions to be Incorporated in an Amended and Restated Sale and Construction Agreement
Date:	December 11, 1985

The purpose of this memorandum is to summarize the most significant revisions to the Sale and Construction Agreement among the City of Boston, Boston Redevelopment Authority, New England Mutual Life Insurance Company and Gerald D. Hines Interests, Inc. dated June 30, 1984 (the "Agreement") which must be addressed in an Amended and Restated Sale and Construction Agreement (the "Amended Agreement"). These revisions are necessary to satisfy the requirements of the lender for the project and to reflect the recent discussions and agreement between Stephen Coyle and representatives of the developer. The discussion of the matters set forth below is not meant to be comprehensive as other less noteworthy changes will also be required.

Numbers in parentheses are references to pages in the Agreement.

1. Separation of Components. The Amended Agreement must reflect a strict separation of the obligations and liabilities with respect to each Component. This matter is of particular concern to the lender. Some of the specific provisions which must be addressed are as follows:

(a) Such defined terms as "Improvements", "Project", "Project Site" and "Property" (10-11) relate to both Components. Since obligations in the Agreement are often tied to these defined terms, the Amended Agreement must clarify that each Component is to be treated independently. For example, the Agreement requires the Improvements to contain approximately 1,200,000 square feet of office space, 100,000 square feet of retail space and the like (22). These types of requirements should be broken down by

Component. Similarly, the definition of the Western Component should be specified with more particularity and the boundary line between the two Components firmly established.

(b) The Agreement requires the Developer to obtain the BRA's approval for an interim plan for design and use of the Eastern Component in the event that the Developer does not commence construction of the Eastern Component within 90 days of completion of the Western Component (23). The Amended Agreement must make clear that the satisfaction of this requirement is not necessary for the issuance of a Certificate of Completion for the Western Component and that any failure by the Developer to fulfill this obligation is not a default on the part of the entity developing the Western Component.

(c) Section 301.c. of the Agreement (25) could be interpreted to make obligations relative to one Component covenants running with the land on which the other Component is to be located. (See also Section 303(d)(36). The Amended Agreement must make clear that covenants are to be applied separately to each Component.

(d) The dates for commencement of demolition and construction must clearly apply to each Component independently (34).

(e) Section 303.d. of the Agreement (36) must be clarified to permit a mortgagee who acquires title to a Component Site to elect to complete only the Component to be located thereon.

(f) Since the development entity for the Western Component, as such, has no real control over the Eastern Component Site, a Certificate of Completion for the Western Component must not be contingent upon BRA approval of a plan for use of the existing buildings on the Eastern Component Site as the Agreement now provides (37).

(g) The Amended Agreement must explicitly provide that the ownership entity of a Component which has been approved by the BRA pursuant to the provisions of Article V (45), assumes only those obligations which relate to the Component in question. The deed of the Component Site, which should be approved by the BRA as part of its approval of the transfer, should also so provide.

(h) The last sentence of Section 503.c. (55) must be limited to make it clear that a mortgagee of one Component is not responsible for any obligations associated with the other

Component, except (in the case of a mortgagee of the Western Component) for any aspects related to the Eastern Component which are required to be completed in order to obtain a Certificate of Completion for the Western Component (i.e., see discussion relative to the separating walls and the so-called "plan" for keeping certain premises in the Eastern Component site in active use (37)).

(i) The remedies upon default set forth in Article IX (63-67,75), including the right to cause a reconveyance if it survives, must be strictly limited to the Component as to which a default has occurred. Section 1311 must be clarified to prevent injunctive relief against the owner of one Component for defaults pertaining to the other Component.

2. Design Review. The design review process set forth in Section 302 (25-33) must be amended to reflect the design review process which will be undertaken in connection with the Eastern Component pursuant to the Agreement. As to the Western Component, there must be an acknowledgment by the BRA in the Amended Agreement of compliance with all design review procedures and final design approval.

3. Conditions. The Amended Agreement must contain an acknowledgment of all "Conditions" which have been satisfied and approval of all matters to be approved by the date of execution of the Amended Agreement (e.g., wind studies under BRA EIR, parking management plan, hiring plan) (3).

4. Eastern Component Construction Commencement Date. The Construction Commencement Date for the Eastern Component must be adjusted (7).

5. Developer Entity. The Amended Agreement must explicitly recognize the development team which will develop the Western Component and the make-up thereof (9). In this regard, Section 210 provides that NEL shall make all decisions with respect to the Project Site until a permitted transfer of the Project Site, or a portion thereof, occurs (22). As of the assumption of control of the Western Component Site by the development team, it must be clear that all decisions with respect to the Western Component are to be made by the development team. Further, the BRA must approve the ownership entity for the Western Component under the Agreement. The BRA should also approve the structure of the ownership entity, including management and control thereunder. The representation in Section 501.a. that NEL

and Hines will be the sole managing and controlling partners of the development entity may not be correct and perhaps should be revised (45-46).

6. Closing. Article II can be amended to reflect the fact that the sale has occurred and the full purchase price therefor has been paid (13-21).

7. Separating Wall Between Components. The dates pertaining to commencement of construction of the Eastern Component which trigger the submission of plans to the BRA with respect to the wall separating the Eastern and Western Components must be amended (33). A clarification that this is a Western Component obligation is probably desirable. However, since NEL/Hines controls the Eastern Component, rather than the approved development team for the Western Component, only NEL/Hines or an approved development team for the Eastern Component should be responsible for determining if construction of the Eastern Component will commence prior to the trigger date.

8. Mortgages. The Agreement permits encumbrances by way of a "bona fide mortgage"(51). The Amended Agreement must make it clear that a mortgage in connection with a loan by a partner or affiliate of a partner is a bona fide mortgage. The Amended Agreement must also provide that the mortgage survives any default and any sale or conveyance pursuant to the remedies provided in the Amended Agreement (74).

9. Reconveyance Provisions. All reverter provisions in the Agreement relating to the Eastern Component must be deleted and the scheme governing reconveyance in the event of default now applicable to the entire project, must be compressed to apply to the Western Component only. In addition, the provisions governing distribution of resale proceeds following a reconveyance to the BRA must be revised. Linkage payments must be excluded from the priority distribution payable before repayment of any mortgage indebtedness and equity contributions (68-71). (This was agreed to with respect to the International Place project by means of the estoppel letter dated January 11, 1985, paragraph 5.a.). In addition, since the partners in the development entity for the Western Component will be contributing equity, Section 901.c.(2) must be clarified with respect to repayment of equity contributions.

10. Mortgagee's Right to Cure. Section 903 which deals with cure by a mortgagee of Developer's default must be revised to provide that (a) the mortgagee's cure period begins upon the expiration of Developer's cure period, (b) the mortgagee's cure

period will be extended to permit mortgagee to gain possession and control of the Project, (c) the BRA cannot invoke any remedies so long as the mortgagee is diligently proceeding with the cure and (d) notices of default to the Developer are not valid unless also given to the mortgagee.

11. Limitation on Liability. The $500,000 limitation on liability in Section 1311 must be divided between the two Components (89).

12. General Update. We may also wish to generally update the Agreement to reflect the current reality. In this regard, executed agreements and more current drafts should be substituted for their counterparts in the exhibits to the Agreement.

13. Estoppels. Estoppels must be issued by the BRA with respect to many other matters as well. Many of these issues can be addressed in the Amended Agreement itself.

EXHIBIT B

BOSTON REDEVELOPMENT AUTHORITY
Boston City Hall
One City Hall Square
Boston, MA 02201

December 19, 1985

New England Mutual
Life Insurance Company
501 Boylston Street
Boston, MA 02117

Gerald D. Hines Interests, Inc.
462 Boylston Street
Boston, MA 02116

Re: 500 Boylston Street, Boston
Approval of Wind Studies

Reference is made to submissions made by Kenneth S. Moczulski to the Boston Redevelopment Authority (the "Authority") on December 4, 1985 in response to a letter from Stephen Coyle, Director of the Authority, to Kenneth S. Moczulski dated June 21, 1985 regarding additional wind studies to be conducted in connection with the Western and Eastern Components of the 500 Boylston Street project.

This is to acknowledge that the wind studies submitted on December 4, 1985 are hereby approved by the Authority. Approval of such wind studies completes approval of all of the studies of environmental impacts of the Western and Eastern Components to be carried out for the Authority except as set forth in the letter-agreement among the Authority, the joint venture of New England Mutual Life Insurance Company and Gerald D. Hines Interests, Inc., and the City of Boston of even date herewith.

Sincerely yours,

Stephen Coyle, Director

EXHIBIT C

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY
c/o Copley Real Estate Advisors, Inc.
535 Boylston Street
Boston, Massachusetts 02116

and

GERALD D. HINES INTERESTS, INC.
462 Boylston Street, Suite 302
Boston, Massachusetts 02116

December , 1985

Boston Redevelopment Authority
Boston City Hall
One City Hall Square
Bostoh, Massachusetts 02201

Re: Parking Management Plan for proposed development to be located on premises bounded by Berkeley, Boylston and Clarendon Streets and St. James Avenue, Boston ("Project")

Gentlemen:

This letter sets forth the marketing plan for parking spaces in the Project to be instituted by the undersigned.

Parking for approximately 673 vehicles will be provided in the western component of the Project (the "Western Component"). Of the 673 spaces to be located in the Western Component, 300 will be designated for short-term public use, 25 will be designated for public use on a monthly basis ("Public Monthly Spaces"), and 348 will be designated for tenants of the Project. Of the 25 Public Monthly Spaces, 20 will be reserved for high-occupancy vehicles such as car pool vans ("Car Pool Spaces"). The Car Pool Spaces will be placed in convenient locations in the parking facility and will be made available at monthly rates not to exceed the lowest monthly parking rate then available at the Western Component.

If the eastern component of the Project (the "Eastern Component") is constructed in accordance with the design contemplated by the Sale and Construction Agreement between the City of Boston, the Boston Redevelopment Authority (the "BRA"), New England Mutual Life Insurance Company and Gerald D. Hines

Interests, Inc. (together, the "Developer") dated as of June 30, 1984 (the "Sale and Construction Agreement"), the Eastern Component will provide parking for approximately 597 vehicles. Of those 597 spaces, 15 will be designated for short-term public use, 285 will be designated as Public Monthly Spaces, and 297 will be designated for tenants of the Project. Of the 285 Public Monthly Spaces, 20 will be designated Car Pool Spaces.

If construction of the Eastern Component is not commenced in accordance with the Sale and Construction Agreement, until such commencement of construction, the Developer agrees to provide an outdoor surface level parking facility including approximately 125 public parking spaces on the Eastern Component site. The ratio of Public Monthly and Car Pool Spaces to short-term spaces, will be mutually agreed upon by the BRA and the Developer.

Although this letter agreement anticipates the provision of a total of 1270 parking spaces if and when both the Western Component and Eastern Component parking facilities are completed, the Planned Development Area Plan (the "PDA") for the Project currently permits a total of only 1000 parking spaces. In the event the PDA is not successfully amended to allow for an additional 270 spaces, the allocation of spaces will be revised as follows. Parking for approximately 600 vehicles will be provided in the Western Component, with the total number of spaces designated for public uses to remain unchanged and the total number of spaces designated for tenants of the Project to be reduced by 73 spaces to a total of 275 spaces. Parking for approximately 400 vehicles will be provided in the Eastern Component, with the total number of spaces designated for public uses to remain unchanged and the total number of spaces designated for tenants of the Project to be reduced by 197 spaces to a total of 100 spaces.

In both the Western Component and the Eastern Component, parking will be provided on three levels located below grade. During construction of the Western Component, no fewer than 75 public spaces for short-term hourly or daily use will be provided on the site of or within three blocks of the Project.

In order to market the Public Monthly Spaces to the public, the undersigned intend to undertake reasonable public advertising of the availability of such spaces and, prior to the opening of the parking facility in the Western Component and the Eastern Component, to place an appropriate exterior sign on the applicable component site indicating the availability of such spaces. After the opening of the parking facility in the Western Component, a sign shall be maintained within the parking facility indicating the availability of monthly parking spaces in the Project. Public Monthly Spaces will be allocated based upon a "lottery style"

allocation system no less than 3 months after the opening of the parking facility in the Western Component and the Eastern Component. Rates for the Public Monthly Spaces will be equal to that charged to tenants of the Project for the parking spaces designated for their use as such rates may be adjusted.

In the event all public monthly parking spaces are rented, the undersigned intends to keep a waiting list of parties desiring Public Monthly Spaces. As the Spaces become available, they will be offered to parties on the waiting list.

Approximately one year after the completion of the Eastern Component, the Developer and the BRA agree to discuss utilization of the parking facilities.

Every three years the utilization of all public parking spaces will be reviewed. If spaces designated for short-term hours or daily use have not been utilized during periods of the year of the most intensive parking use or Public Monthly Spaces have not been utilized on a reasonably regular basis during the preceding three-year period, an appropriate number of such spaces will be converted to tenant use with your approval, which approval is not to be unreasonably withheld or delayed.

When the Western Component parking facility is completed and in operation, a short-term parking program will be initiated, which will require that at least 100 of the public short-term spaces remain unoccupied during normal business days until 9:30 a.m. The completion of the Eastern Component parking facility shall in no event require an increase in the number of spaces that must remain unoccupied. It is agreed and understood that the purpose of this provision is not to keep spaces unnecessarily vacant, but rather to improve service to users of the Project parking facility.

The Project parking facility will also provide additional conveniences for owners of vehicles of the neighborhoods surrounding the Project site displaying "residential parking stickers." In particular, such vehicles shall be allowed access to the Project parking facility during major snow emergencies to the extent spaces are available and, pursuant to a plan to be developed with input from the BRA and residential community representatives, shall be allowed to park on nights and weekends in the Project parking facility, during the facility's standard hours of operation, at special rates.

Upon completion of both the Western Component and the Eastern Component, the facility shall be treated as a single parking facility for purposes of allocation of spaces between public and tenant uses. The total number of spaces allocated to each use, however, shall continue in accordance with this letter agreement.

Kindly acknowledge your approval of the foregoing by signing and returning the enclosed copy of this letter.

Very truly yours,

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

By: Copley Real Estate Advisors, Inc.
Asset Manager and Advisor,
hereunto duly authorized

By:_____

GERALD D. HINES INTERESTS, INC.

By:_____

Consented to this day
of , 1985

BOSTON REDEVELOPMENT AUTHORITY

By:_____
Stephen F. Coyle, Director

EXHIBIT D

MEMORANDUM OF UNDERSTANDING

BETWEEN BOSTON REDEVELOPMENT AUTHORITY

and

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY/
GERALD D. HINES INTERESTS, INC., REDEVELOPERS
OF 500 BOYLSTON STREET IN THE BACK BAY

This Memorandum of Understanding entered into this ____ day of _____, 1985, by and between the Boston Redevelopment Authority, a public body politic and corporate, duly organized and existing pursuant to Chapter 121B of the Massachusetts General Laws, having as its usual place of business in Boston, Massachusetts, hereinafter referred to as the "Authority", and New England Mutual Life Insurance Company, hereinafter referred to as "NEL", and Gerald D. Hines Interests, Inc., herein referred to as "GDHI".

WITNESSETH THAT:

WHEREAS, the Authority has authorized the Director of the Authority (the "Director") to execute a "Cooperation Agreement" with NEL/GDHI concerning the carrying out of the redevelopment of 500 Boylston Street in the Back Bay, consisting of a western component (the "Western Component") and an eastern component (the "Eastern Component") (together the "Project");

WHEREAS, the Authority Board has voted to authorize the Director to enter into a "Sale and Construction" Agreement with NEL/GDHI; and

WHEREAS, the Authority and NEL/GDHI desire to establish a plan to enhance traffic flow and parking availability in connection with construction and operation of the Project.

WHEREAS, the Authority on its own behalf and on behalf of the City of Boston intends to require all developers carrying out construction projects in the downtown and Back Bay areas of Boston to establish similar plans to uniformly minimize construction related impact on traffic flow in the City of Boston.

NOW, THEREFORE, the parties do hereto mutually agree as follows:

1. Construction Impacts

NEL/GDHI agrees to establish a "Construction Mitigation Plan" (the "Plan") which will commence on the date of issuance of a demolition permit for the Western Component of the Project and which will extend for sixty (60) months or until the occupancy of the Eastern Component of the Project, whichever is first to occur; provided, however, that the Plan shall not

apply to non-construction related activity associated with the Western Component following completion thereof. Such Plan is subject to the approval of the Director, and shall provide as follows:

- Reasonable efforts will be made to minimize construction related truck movement between 7:30 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m., except during the demolition, excavation and concrete placement phases of construction. At no time will trucks be permitted to be staged in such a manner as to impede the flow of traffic in the Project site area. NEL/GDHI will submit to the Authority prior to the commencement of construction a construction traffic and staging plan incorporating these provisions and requiring notice to the contractor, subcontractors and suppliers concerning the delivery and traffic flow requirements contained herein.

- All construction deliveries, except those associated with excavation and concrete placement, will be to Clarendon Street, Berkeley Street or St. James Avenue to ensure that normal shopping activity along Boylston Street will not be affected in any material manner.

- Structural steel deliveries arriving by rail to the Allston yards will be transferred to trucks that will exclusively use the Massachusetts Turnpike for arrivals and departures.

- NEL/GDHI in cooperation with the Authority will attempt to locate satellite parking locations for use by construction workers during the construction of the Western Component from which a free shuttle bus service to transport workers to the Project site will be provided.

2. Traffic Parking Impacts

NEL/GDHI further agrees to establish a "Traffic and Parking Management Plan" (the "Traffic Plan") which will commence six months prior to occupancy of the Western Component and extend for fifteen (15) years following occupancy of the Western Component. The Traffic Plan shall provide the following measures to reduce demand for parking at the Project and in the adjacent areas:

- NEL/GDHI will operate a computer-based ride-sharing information bank for the Back Bay business community. With the cooperation of adjacent businesses and building owners, NEL/GDHI will collect and disseminate information, in cooperation with Masspool, from and to commuters seeking to establish carpool arrangements. In connection therewith, NEL/GDHI will place promotional material for such programs, including information concerning availability of car pool parking spaces, in

company publications regarding mass transit and carpooling.

- NEL/GDHI will participate in the MBTA Commuter pass program through its property management office which will make available for sale MBTA commuter passes for subway and surface bus services to its employees and to tenants of the Project.

- NEL/GDHI agrees to encourage tenants of the Project to establish plans for staggered work hours or a "flex-time" system to reduce peak hour traffic impacts. NEL/GDHI's property management office will assist tenants interested in establishing such plans.

- NEL/GDHI agrees to maintain and provide the necessary staff through its property management office, to deal with transit, traffic and parking matters relating to the Traffic Plan and for monitoring access to the Project's parking facility.

- The property management office will also distribute information and promote the management program for all of the tenants in the Project.

3. Performance Monitoring

- During construction, the Director or his designee may request periodic meetings with NEL/GDHI representatives to review compliance procedures. If the Director reasonably determines that NEL/GDHI is not in compliance with the Authority approved "Construction Monitoring Plan" with respect to a Component, the Authority shall require NEL/GDHI to take such actions as are reasonably necessary to achieve full compliance with respect to such Component within thirty (30) days of such directive.

- It is recognized that the Authority may keep a record of compliance with respect to each Component on file. This information may be considered in deciding whether to award future development parcels (unrelated to the Project) to NEL/GDHI.

- NEL/GDHI shall send a progress report annually to the Authority including information regarding traffic, transit and parking characteristics of employees and visitors to each Component.

4. Traffic Operation and Control

- NEL/GDHI agrees to participate in traffic studies and implementation of short-term improvements and selected measures to help traffic management in the Back Bay including improved signage and to expend up to $75,000 towards this effort.

- The Authority on its own behalf and on behalf of the City of Boston agrees to take necessary steps to further improve management of traffic control and parking in the Project site area and the Back Bay generally.

5. Joint Venture Liability

- The Authority agrees that NEL/GDHI and its successors in interest shall be liable for breaches of obligations under this Agreement with respect to a particular Component only while NEL/GDHI or any successor in interest, as the case may be, is owner of the Component in question. The Authority further agrees to look solely to the interest in the Component in question of NEL/GDHI or its successors, as the case may be, for any claim against NEL/GDHI or any successor arising out of this Agreement in connection with such Component. Neither NEL/GDHI nor any trustee, beneficiary, partner, manager, agent or employee of NEL/GDHI (or its successors and assigns) shall ever be personally or individually liable; nor shall it or they ever be answerable or liable in any equitable proceeding or order beyond the extent of its or their interest in the Component in question.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding as of the day and year first above written.

BOSTON REDEVELOPMENT AUTHORITY

_____
Stephen Coyle, Director

Approved as to Legal Form:

_____
General Counsel
Boston Redevelopment Authority

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

By:_____
Name:
Title:

GERALD D. HINES, INTERESTS, INC.

By:_____
Name:
Title:

EXHIBIT E

Gerald D. Hines Interests 462 Boylston Street, Suite 302 Boston, Massachusetts 02116 Area Code 617 236-0096

December 11, 1985

Ms. Susan Allen
Boston Redevelopment Authority
Ninth Floor
Boston City Hall
Boston, MA 02201

RE: Approval of Western Component General Contractor

Dear Susan:

Pursuant to Section 101 Paragraph L of the Sales and Construction Agreement between the Joint Venture and the City of Boston, we are writing to obtain the approval of the Authority of our selection of our General Contractor for the Western Component.

We have selected a Joint Venture of Bond Brothers and Dugan and Meyers. Enclosed is some background literature on both firms. Bond Brothers is a local contractor based in Everett, Massachusetts and Dugan and Meyers is based in Cincinnati. The Hines Interests has a long and establishec working relationship with Dugan and Meyers. They have built such projects as the Hartford Steam and Boiler Building in Hartford, Central Trust Center in Cincinnati, The Huntington Bank Center in Columbus, and the Southeast Financial Center in Miami. These projects range in size from approximately 400,000 square feet of office space up to 1 million square feet. We have total confidence in this Joint Venture's capability to undertake the construction of the Western Component.

In order to comply with the terms of the Sales and Construction Agreement to provide us with the Authority's written approval we would ask that the Authority counter sign one copy of this letter and return it to us for our records. If you should have any questions or require additional information, please feel free to contact me.

Very truly yours,

Kenneth S. Moczulski

KSM:jba
KSM121050
Attachments
cc: B. Fallon
M. Harrity
E. Ross

Approved this ____ day of December, 1985 by the Boston Redevelopment Authority

EXHIBIT F

Gerald D. Hines Interests 462 Boylston Street, Suite 302 Boston, Massachusetts 02116 Area Code 617 236-0096

December 19, 1985

Mr. Mitchell Fischman
Boston Redevelopment Authority
City Hall Plaza
Boston, Massachusetts 02108

RE: Western Component
500 Boylston Street
Boston Residents Construction Employment Plan

Dear Mitch:

Pursuant to your discussions with Brian Fallon of this date, we hereby agree to the following changes to the Bond Bros./Dugan & Meyers, Joint Venture letter of October 17, 1985:

1. Insert in the first line of the first paragraph after the word acknowledges, "that it is contractually bound to fulfill the requirements of"

2. Under the Subcontractors heading, paragraph no. 2, change the reference of monthly reports to weekly.

3. Under the Subcontractors heading, paragraph no. 3, insert in line two after the word subcontractor the following: "and the BRA Compliance Office".

4. Add the following sentence to the last paragraph: "We understand that the above outlined program is acceptable as a preliminary employment plan and commits to work with the BRA to complete a final plan in the near future".

We understand that with these changes the Boston Residents Construction Employment Plan for the Western Component is agreeable and acceptable to the BRA.

Very truly yours,

Kenneth S. Moczulski

Agreed and Acknowledged this
19th day of December, 1985

By:_____

OCT 18 1985

BOND BROS./

Bond Bros./Dugan & Meyers, A Joint Venture

October 17, 1985

Gerald D. Hines Interests
462 Boylston Street
Boston, Massachusetts 02116

Attn: Andrew Stallings

Gentlemen:

Bond Bros./Dugan & Meyers, Joint Venture, acknowledges the Mayors Executive Order extending the Boston Residents Job Policy Plan and commits to an effort, in good faith, to encourage compliance by Bond Bro./Dugan & Meyers, Joint Venture, our subcontractors and participating building trades. We intend to accomplish this by the following efforts:

Subcontractors

1. Include the Mayors Executive Order as part of our standard subcontract agreement.

2. Require each subcontractor to submit monthly reports identifying compliance on a trade basis. (See attached proposed format)

3. Follow up each non-complying report with correspondence to the subcontractor identifying areas of non-compliance and requiring response as to the action the subcontractor shall take to comply.

Building Trades

1. Advise all building trades, by letter, that the project is operating under the auspices of the Mayors Exexcutive Order and ask their cooperation in providing the designated quotes.

2. In the event the building trades are unable to comply, Bond Bros./Dugan & Meyers will seek compliance by attempting to hire through other sources, subject to the terms and conditions of labor agreements.

11110 Kenwood Road
Cincinnati, Ohio 45242-1863
(513) 891-4300

Andrew Stallings
Gerald D. Hines Interests

In addition to the above, we are informing the State Office of Minority Business Assistance and the Contractors Association of Boston Inc. of the subcontractor bid dates to encourage minority business enterprise participation. The latter shall receive plans and specifications in order to assist subcontractors in preparation of their bids.

We trust that the outlined program is acceptable and that our continued mutual efforts will lead to a successful project in terms of conformance with the Mayors Executive Order. If you have any comments or questions, please contact the undersigned.

Sincerely,

BOND BROS./DUGAN & MEYERS,
JOINT VENTURE

Anthony J. Cotter
Project Manager

BOSTON RESIDENTS CONSTRUCTION EMPLOYMENT PLAN

MONTHLY EMPLOYMENT UTILIZATION REPORT

NAME AND LOCATION OF CONTRACTOR:

REPORTING PERIOD
FROM: _____
TO: _____

PROJECT: FIVE HUNDRED BOYLSTON STREET
OWNER: NEW ENGLAND LIFE & GERALD D. HINES INTERESTS
CONTRACTOR: BOND BROS./DUGAN & MEYERS - A JOINT VENTURE

CURRENT GOALS

BOSTON RES.	50%
MINORITY	25%
FEMALE	10%

WORK HOURS OF EMPLOYMENT

CONSTRUCTION TRADE	CLASSIFICATIONS	TOTAL ALL EMPLOYEES BY TRADE	BOSTON RESIDENTS	MINORITIES	FEMALE	RESIDENT PERCENTAGE	MINORITY PERCENTAGE	FEMALE PERCENTAGE
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
TOTAL JOURNEY WORKERS								
TOTAL APPRENTICES								
TOTAL TRAINEES								
GRAND TOTAL								

COMPANY OFFICIAL'S SIGNATURE AND TITLE | TELEPHONE NUMBER (Include area code) | DATE SIGNED

EXHIBIT K

City of Boston
Public Facilities Department

26 Court St./6th Floor
Boston, Massachusetts 02108

Donald B. Manson
Director

Victor E. Hagan
Associate Director

THE UNDERSIGNED HEREBY CERTIFIES THAT SHE is the Secretary of the Public Facilities Commission, and that at a meeting of the said Commission, duly called and held on Monday, December 12, 1983, whereat Chairman Edward T. Sullivan and Commissioner Stuart E. Marwell, being a majority of the said Commission, were present, it was voted

"Subject to the approval of the Mayor under St. 1909, c. 486, s. 31A (as appearing in St. 1966, c. 642, s.12): That the land with building thereon known as the St. James Avenue Garage, located at 85 St. James Avenue, and related real estate (hereinafter St. James Avenue Garage Parcel), in the Back Bay district of the City of Boston be, and the same hereby is, transferred from the care, custody, management and control of the Real Property Department to the care, custody, management and control of the Public Facilities Department; and

FURTHER VOTED: In accordance with the votes of the Boston Real Property Board of December 9, 1983 and the Boston Redevelopment Authority of December 8, 1983; That it is the intent of this Commission to tentatively designate to the Joint Venture of New England Mutual Life Insurance Company and Gerald D. Hines Interests as developers of the above captioned parcels, subject to the terms and conditions as set forth in the document entitled "Terms and Conditions for the Tentative Designation of St. James Avenue Garage Parcel," dated December 8, 1983 and attached hereto; and

FURTHER VOTED: Subject to the approval of the Mayor under St. 1909, c. 486, s. 31B (as appearing in St. 1966, c. 642, s. 12): That it is the intent of this Commission to sell the above captioned parcels to the Joint Venture of New England Mutual Life Insurance Company and Gerald D. Hines Interests; and

FURTHER VOTED: That the Director be, and he hereby is, authorized to advertise the intent of this Commission to sell the above described properties in accordance with the provisions of Chapter 642 of the Acts of 1966;

City of Boston
Public Facilities Department

26 Court St./6th Floor
Boston, Massachusetts 02108

Donald B. Manson
Director

Victor E. Hagan
Associate Director

AND FURTHER VOTED: The Public Facilities Commission hereby delegates to the City of Boston Real Property Board it power in regard to the limited purposes of the maintenance and operation of the St. James Avenue Garage, until the conveyance of the aforementioned property pursuant to the terms and conditions set out in the votes referenced above."

Lori B. Medvin
Secretary

APPROVED:

Kevin H. White
Mayor of Boston

City of Boston
Public Facilities Department

26 Court St./6th Floor
Boston, Massachusetts 02108

Donald B. Manson
Director

Victor E. Hagan
Associate Director

THE UNDERSIGNED HEREBY CERTIFIES THAT SHE is the Secretary of the Public Facilities Commission, and that at a meeting of the said Commission, duly called and held on Monday, December 12, 1983, whereat Chairman Edward T. Sullivan and Commissioner Stuart E. Marwell, being a majority of the said Commission, were present, it was voted

"Pursuant to St. 1966, c. 642, s. 3 (ii); that the Director of the Public Facilities Department, the Boston Redevelopment Authority and the respective designated developers of each of the parcels listed below, be, and hereby are, authorized to petition the Public Improvement Commission regarding discontinuances of certain public ways; provided that said authorization shall only apply to discontinuances associated with the Government Center Garage, Fort Hill Square Garage, St. James Avenue Garage and Kilby Street Garage as are necessary and consistent with prior votes of this Commission, the Boston Redevelopment Authority, and the City of Boston Real Property Board regarding these respective parcels."

Lori B. Holden
Secretary

City of Boston
Public Facilities Department

26 Court St./6th Floor
Boston, Massachusetts 02108

Donald B. Manson
Director

Victor E. Hagan
Associate Director

THE UNDERSIGNED HEREBY CERTIFIES THAT HE is the Acting Secretary o: the Public Facilities Commission, and that at a meeting of the saic Commission, duly called and held on Friday, December 30, 1983, whereat Chairman Edward T. Sullivan and Commissioner James Englisl being a majority of the members of the said Commission were present it was voted

"Pursuant to St. 1966, c. 642, s. 3 (ii), that the Boston Redevelopment Authority, a public body, politic and corporate, duly organized and existing pursuant to Chapter 121 B of the Massachusetts General Laws, having its usual place of business at One City Hall Square, Boston, MA. 02201, be, and hereby is, authorized and empowered by the Public Facilities Commission to take any and all actions deemed necessary and appropriate including authority to sign Purchase and Sale Agreement or Sale and Construction Agreement and Deed on behalf of this Commission in furtherance of the disposition of the St. James Avenue Parking Garage in accordance with the provisions of previous votes regarding this parcel by this Commission, the Boston Redevelopment Authority, the Boston Real Property Board and the document entitled 'Terms and Conditions for the Tentative Designation of the St. James Avenue Garage Parcel" dated December 8, 1983. Said delegation shall include all authority and responsibility to act as agent for and on the behalf of this Commission to implement the aforementioned development."

Acting Secretary

City of Boston
Public Facilities Department

26 Court St./6th Floor
Boston, Massachusetts 02108

James F. Hart
Director

Paul Roche
General Counsel

THE UNDERSIGNED HEREBY CERTIFIES THAT SHE is the Secretary of the Public Facilities Commission, and that at a meeting of the said Commission, duly called and held on Thursday, August 23, 1984, whereat Chairman Joseph Fisher and Commissioner Raymond Dooley, being a majority of said Commission were present, it was voted

"That having duly advertised its intent to sell to New England Mutual Life Insurance Company, a mutual life insurance company (NEL), c/o Copley Real Estate Advisors, Inc., with offices at 535 Boylston Street, Boston, MA, the land with buildings thereon, located at 85 St. James Avenue and other related estate, known as the St. James Avenue Garage Parcel in the Back Bay district of the City of Boston for two consecutive weeks (August 6 and August 13, 1984) in accordance with the provisions of Chapter 642 of the Acts of 1966, the Public Facilities Commission, pursuant to its vote of December 12, 1983, and subsequent approval of the Mayor, does hereby vote to sell the aforementioned property to New England Mutual Life Insurance Company; and

FURTHER VOTED: That the Director be, and he hereby is authorized to execute, on behalf of the City of Boston, a Sale and Construction Agreement setting forth the terms, conditions and restrictions of the redevelopment of the above described property;

AND FURTHER VOTED: That the Director be, and he hereby is, authorized to execute and deliver an instrument conveying said property to New England Mutual Life Insurance Company, subject to the Boston City Council taking all necessary actions in furtherance of this conveyance, in consideration of Seven Million Seven Hundred and Sixty-Six Thousand Four Hundred ($7,766,400.00) Dollars."

Secretary

City of Boston
Public Facilities Department

26 Court St./6th Floor
Boston, Massachusetts 02108

James F. Hart
Director

Paul Roche
General Counsel

THE UNDERSIGNED HEREBY CERTIFIES THAT SHE is the Secretary of the Public Facilities Commission, and that at a meeting of the said Commission, duly called and held on Thursday, November 29, 1984, whereat Chairman Joseph Fisher and Commissioner Joseph Delgardo, being a majority of the said Commission, were present, it was voted

"In accordance with the votes of the Real Property Board of December 9, 1983 with accompanying terms and conditions, the Boston Redevelopment Authority of December 8, 1983 with accompanying terms and conditions; the Boston City Council of April 18, 1984 which was deemed in force under St. 1948, c. 452, s. 17D (as appearing in St. 1951, c. 376, s. 1) on May 4, 1984; the votes of this Commission dated December 12, 1983 (2 votes), December 30, 1983 and August 23, 1984; the vote of the Boston Ci Council of October 17, 1984 which was deemed in force under St. 1948, c. 452, s. 17D (as appearing in St. 1951, c. 376, s. 1) on October 19, 1984; and the approval of the Mayor, where necessary This Commission confirms its intention to sell the land with building known as the St. James Avenue Garage and related real estate (further described below as the Discontinued Ways)., in th Back Bay District of the City of Boston, to New England Mutual Life Insurance Company, a mutual life insurance company (NEL), c/o Copley Real Estate Advisors, Inc., with offices at 535 Boylston Street, Boston, MA:

The following represents a description of adjacent properties discontinued as public ways by the Public Improvement Commissicn in furtherance of the development of the St. James Avenue Garage Parcel and subsequently transferred to this Commissicn pursuant t the City Council vote of October 17, 1984 (hereinafter known as "Discontinued Ways").

1) The property shown on a plan entitled "City of Boston, Publ Works Department, Engineering Division, Discontinuance Plan Providence Street, Boston Proper, January 9, 1984, Francis O'Rourke, Division Engineer," further described as the portion of Providence Street from Berkeley Street to Clarendon Street, bounded easterly by Berkeley Street, twenty-two and 00/100 feet; southerly by the southerly line of Providence Street as hereby transferred, one hundred seventy-four and 80/100 feet; westerly by the westerly line of Providence Street, as hereby transferred, two and 67/100 feet; souther by the southerly line of Providence Street as hereby transferred, thirty and 00/100 feet; easterly by the easterly line of Providence Street as hereby transferred, two and 67/100 feet; southerly by the southerly line of Providence Street as hereby transferred, three hundred forty-three and 26/100 feet; westerly by Clarendon Street, twenty-two and

City of Boston
Public Facilities Department

26 Court St./6th Floor
Boston, Massachusetts 02108

James F. Hart
Director

Paul Roche
General Counsel

00/100 feet; and northerly by the northerly line of Providence Street as hereby transferred, five hundred forty-eight and 06/100 feet; containing eleven thousand nine hundred seventy-seven square feet more or less (the "Discontinued Portion of Providence Street").

2) The Property shown on a plan entitled "City of Boston, Public Works Department, Engineering Division, Discontinuance Plan, St. James Avenue, Boston Proper, January 9, 1984, Francis H. O'Rourke, Division Engineer further described as the portion of St. James Avenue on the northerly side, from Berkeley Street to Clarendon Street, vertically below the sidewalk from elevation 12.50 to elevation 43.50; bounded easterly by Berkeley Street, ten and 00/100 feet; southerly by the southerly line of St. James Avenue as hereby transferred, five hundred forty-eight and 07/100 feet; westerly by Clarendon Street, ten and 00/100 feet; and northerly by the northerly line of St. James Avenue as hereby transferred, five hundred forty-eight and 07/100 feet: containing five thousand four hundred eighty-one square feet more or less (the "Discontinued Portion of St. James Avenue"); and

3) The Property shown on a plan entitled "City of Boston, Public Works Department, Engineering Division, Discontinuance Plan, Clarendon Street, Boston Proper, January 9, 1984, Francis H. O'Rourke, Division Engineer further described as the portion of Clarendon Street on the easterly side, from St. James Avenue to Boylston Street, vertically below the sidewalk from elevation 12.50 to elevation 43.50; bounded southerly by St. James Avenue, five and 00/100 feet; westerly by another portion of Clarendon Street, two hundred fifty-nine and 98/100 feet; northerly by Boylston Street, five and 00/100 feet; easterly by the easterly line of Clarendon Street as hereby transferred, one hundred twenty-five and 00/100 feet; again easterly by Providence Street as hereby transferred, twenty-two and 00/100 feet; and again easterly by the easterly line of Clarendon Street as hereby transferred, by two measurements, one hundred two and 98/100, and ten and 00/100 feet: containing one thousand three hundred square feet more or less.

FURTHER VOTED: That this Commission confirms its conveyance vote of August 23, 1984 and further clarifies that the consideration of Seven Million Seven Hundred and Sixty-Six Thousand Four Hundred ($7,766,400.00) Dollars stated therein includes the price for the St. James Avenue Garage and the Discontinued Ways."

Joni B. Goldin
Secretary

City of Boston
ublic Facilities Department

26 Court St./6th Floor
Boston, Massachusetts 02108

James F. Hart
Director

Paul Roche
General Counsel

THE UNDERSIGNED HEREBY CERTIFIES THAT SHE is the Secretary of the Public Facilities Commission, and that at a meeting of the said Commission, duly called and held on Friday, June 28, 1985, whereat a majority of the said Commission were present, it was voted

"In accordance with the vote of the Real Property Board of December 9, 1983 with accompanying terms and conditions; the vote of the Boston Redevelopment Authority of December 8, 1983 with accompanying terms and conditions; the vote of the Boston City Council of April 18, 1984 was deemed in force under St. 1948, c. 452, s. 17D (as appearing in St. 1951, c. 376, s. 1) on May 4, 1984; the votes of this Commission dated December 12, 1983 (two votes), December 30, 1983, August 23, 1984 and November 29, 1984; the vote of the Boston City Council of October 17, 1984 which was deemed in force under St. 1948, c. 452, s. 17D (as appearing in St. 1951, c. 376, s. 1) on October 19, 1984; the vote of the Boston Redevelopment Authority of June 27, 1985; and the approval of the Mayor, where necessary: The Public Facilities Commission hereby finally designates the joint venture of New England Mutual Life Insurance Company and Gerald D. Hines Interests, Inc., as developers of the land and buildings thereon known as the St. James Avenue Garage, located at 85 St. James Avenue, and related real estate including discontinued portions of adjacent streets."

Lillian Vyzouvis
Secretary

EXHIBIT L

Private Land Description

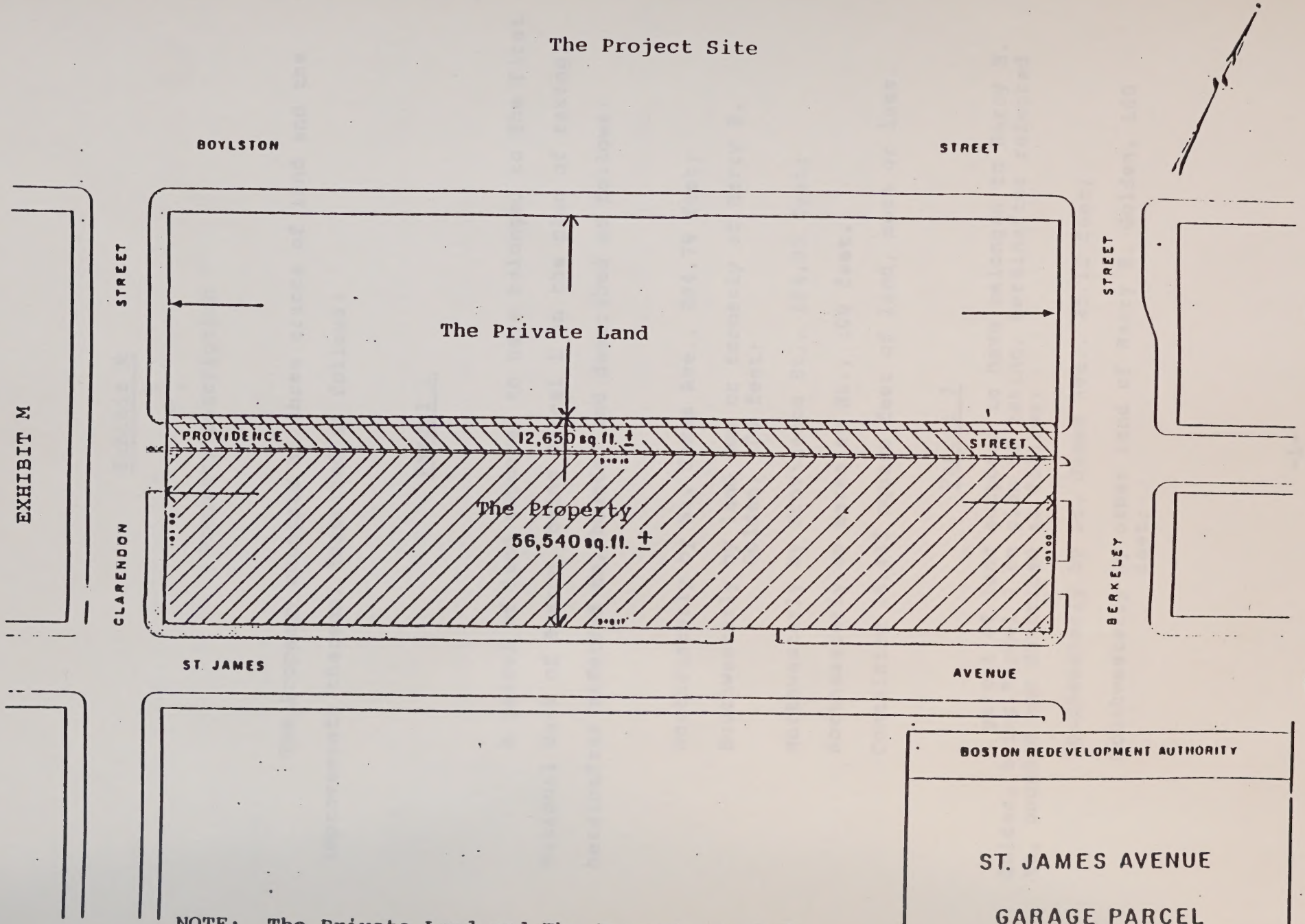
That certain parcel of land with the improvements thereon situated in Boston, Suffolk County, Massachusetts, bounded and described as follows:

NORTHERLY	by Boylston Street, 548.07 feet;
EASTERLY	by Berkeley Street, 102.96 feet;
SOUTHERLY	by Providence Street, 548.06 feet; and
WESTERLY	by Clarendon Street, 102.98 feet.

Containing, by estimation, about 56,512 square feet of land.

Also including the fee title to the center lines of Providence Street, Berkeley Street, and Clarendon Street, portions of which may be or have been discontinued at or below grade.

The Project Site



NOTE: The Private Land and The Property include to the center line of adjacent streets.

BOSTON REDEVELOPMENT AUTHORITY

ST. JAMES AVENUE

GARAGE PARCEL

Scale 1" = 40'	Date Nov 1st 1982
Dr By PEN	Appr By

Exhibit N

Property Description

The Property consists of three tracts of land and the improvements thereon, described as follows:

Parcel 1

A parcel of land supposed to have belonged to The First National Bank of Boston, being Parcel 1 on the plan of taking, hereinafter referred to, bounded and described as follows:

Southeasterly by St. James Ave., 264.79 feet;

Southwesterly by land now or formerly of Harry B. Golden, 100 feet;

Northwesterly by Providence St., 264.92 feet;

Northeasterly by Berkeley St., 100 feet.

Containing 26,485 square feet of land, more or less.

Parcel 2

A parcel of land supposed to have belonged to Harry B. Golden, being Parcel 2 on plan of taking, hereinafter referred to, bounded and described as follows:

Southeasterly by St. James Ave., 25.12 feet;

Southwesterly by other land of Harry B. Golden, 100 feet;

Northwesterly by Providence St., 25.06 feet;

Northeasterly by Parcel 1, hereinbefore referred to, 100 feet.

Containing 2,509 square feet of land, more or less.

Parcel 3

A parcel of land supposed to have belonged to Harry B. Golden, being Parcel 3 on plan of taking, hereinafter referred to, bounded and described as follows:

Southeasterly by St. James Ave., 22.68 feet;

Southwesterly by land now or formerly of N. Winthrop Robinson and Charles D. Cross, Trs.,, 100 feet;

Northwesterly by Providence St., 22.92 feet;

Northeasterly by Parcel 2, hereinbefore referred to, 100 feet.

Containing 2,280 square feet of land, more or less.

Parcel 4

A parcel of land supposed to have belonged to N. Winthrop Robinson and Charles D. Crosby, Trustees, being Parcel 4 on the plan of taking, hereinafter referred to, bounded and described as follows:

Southeasterly by St. James Ave., 22.51 feet;

Southwesterly by land now or formerly of M. Ahern Co., 100 feet;

Northwesterly by Providence St., 22.51 feet;

Northeasterly by Parcel 3, hereinbefore referred to, 100 feet.

Containing 2,251 square feet of land, more or less.

Parcel 5

A parcel of land supposed to have belonged to M. Ahern Co., being Parcel 5 on plan of taking, hereinafter referred to, bounded and described as follows:

Southeasterly by St. James Ave., 24.13 feet;

Southwesterly by land now or formerly of Darwin E. Gardner and Charles S. Gardner, 100 feet;

Northwesterly by Providence St., 24.13 feet;

Northeasterly by Parcel 4, hereinbefore referred to, 100 feet.

Containing 2,413 square feet of land, more or less.

Parcel 6

A parcel of land supposed to have belonged to Darwin E. Gardner and Charles S. Gardner, being Parcel 6 on plan of taking, hereinafter referred to, bounded and described as follows:

Southeasterly by St. James Ave., 23.89 feet;

Southwesterly by land now or formerly of The Personal Book Shop, Inc., 100 feet;

Northwesterly by Providence St., 23.89 feet;

Northeasterly by Parcel 5, hereinbefore referred to, 100 feet.

Containing 2,389 square feet of land, more or less.

Parcel 7

A parcel of land supposed to have belonged to The Personal Book Shop, Inc., being Parcel 7 on plan of taking, hereinafter referred to, bounded and described as follows:

Southeasterly by St. James Ave., 22.70 feet;

Southwesterly by land now or formerly of 500 Boylston St., Inc., 100 feet;

Northwesterly by Providence St., 22.23 feet;

Northeasterly by Providence St., by Parcel 6, hereinbefore referred to, 100 feet.

Containing 2,247 square feet of land, more or less.

Parcel 8

A parcel of land supposed to have belonged to 506 Boylston St., Inc. being Parcel 8 on plan of taking, hereinafter referred to, bounded and described as follows:

Southeasterly by St. James Ave., 142.35 feet;

Southwesterly by Clarendon St., 100 feet;

Northwesterly by Providence St., 142.50 feet;

Northwesterly by Parcel 7, hereinbefore referred to, 100 feet.

Containing 14,243 square feet of land, more or less.

The above-described parcels of land and all of said measurements are shown on a plan marked "Plan showing land taken for Off-Street Parking Facilities, under authority of Acts of the Legislature, Chapter 474 of 1946 and Chapter 79 of the General Laws", "City of Boston, Berkeley St., St. James Ave., Clarendon St., Providence St., Boston Proper, November 16, 1950, James W. Haley, Chief Engineer, Street Laying-Out Department," being Engineering Division Plan K-344.

SECOND TRACT:

A certain parcel of land bounded and described as follows:

Northwesterly by Providence St., 548.16 feet;

Northeasterly by Berkeley St., 3 feet;

Southeasterly by land of the City of Boston, 548.16 feet;

Southwesterly by Clarendon St., 3 feet.

The above-described parcel of land, together with the location and dimensions thereof, is shown on a plan marked "City of Boston, Providence St., Boston Proper, Dec. 15, 1951, James W. Haley, Chief Engineer, Street Laying-Out Department" on file in said department, being Engineering Division Plan L-8215.

Both of the above Tracts are shown as one parcel on a plan marked "City of Boston, Berkeley St., Clarendon St., Providence St., St. James Ave., Boston Proper, Feb. 27, 1953, James W. Haley, Chief Engineer, Street Laying-Out Department," being Engineering Division Plan K-487.

THIRD TRACT

The property shown as the Discontinued Area of Providence Street on a plan entitled "City of Boston - Public Works Dept. Engineering Division, Discontinuance Plan, Providence Street, Boston Proper" dated October 26, 1983 and prepared by Survey Engineers of Boston, bounded and described as follows:

Northeasterly by land now or formerly of New England Mutual Life Insurance Company, The Mill Dam Trust, the Erin Trust and The Old Sod Trust, 548.06 feet;

Southeasterly by Berkeley Street, 22.00 feet;

Southwesterly by land now or formerly of the City of Boston conveyed herein to Grantees, 174.80 feet;

Northwesterly by said land of the City of Boston, 2.67 feet;

Southwesterly by said land of the City of Boston, 30.00 feet;

Southeasterly by said land of the City of Boston, 2.67 feet;

Southwesterly by said land of the City of Boston, 343.26 feet;

Northwesterly by Clarendon Street, 22.00 feet.

Containing 11,977 square feet of land, more or less.

Meaning and intending to include in the Premises, fee title to the land lying between the bounds of the Tracts described above which run along Berkeley Street, St. James Avenue, and Clarendon Street and the intersecting center lines of Berkeley Street, St. James Avenue and Clarendon Street.

The property includes all improvements thereon and all rights, privileges and appurtenances thereto.

EXHIBIT O

BOARD MEETING: Friday, 9 December 1983

A meeting of the Real Property Board was duly held in Room 811, City Hall, on Friday, 9 December 1983.

The following members were present: Bernard F. Shadrawy, Jr., Chairman
Thomas J. Long, Jr. 11:00 a.m. to 11:3
Thomas F. Kelly, Jr.
Martha R. Goldsmith
Jon A. Chilingerian

Also present: Attorney Russell Fanara, Real Property Department
Attorney Steven Whitkin, Special assistant on Lafayette Place Project
Ms. Susan Allen and Mr. Mitchell Fischman, BRA
Mr. E. Staman Ogilvie, Gerald D. Hines Interests
Mr. Kenneth S. Moczulski, Gerald D. Hines Interests
Ms. Elizabeth C. Ross, Hale and Dorr
Mr. Brian Fallon, Meredith and Grew

The meeting was called to order by the Chairman, Bernard F. Shadrawy, Jr. at 10:00 a.m., and the minutes of the Board Meeting of 14 November 1983 were approved.

Mr. E. Staman Ogilvie, representing Gerald D. Hines Interests, Houston, Texas, who along with New England Mutual Life Insurance Company were tentatively designated by the Boston Redevelopment Authority on December 8, 1983 as redevelopers of the St. James Avenue Garage Parcel, addressed the Board. A presentation which encompassed a scale model and a discussion outlining their development plans for this site ensued. The Board was particularly concerned that the parking needs of this residential and merchant oriented area would be protected during and after redevelopment. In addition, there was an extensive discussion by the Board of a letter dated August 3, 1983 from Allright Boston Parking, Inc., Boston, MA, wherein they made two optional and general offers to purchase the St. James Avenue Garage (outside the Boston Redevelopment Authority proposal process). The Chairman stated that although the offers were attractive and provided interesting alternatives to the development route presently being taken for the parcel, the original process as commenced with the request for proposals was being adhered to by the City; also this letter arrived after Allright had the benefit of reviewing the proposals submitted to the BRA. The Chairman noted that in deciding to develop this parcel, the City was not necessarily interested in a higest and best use for this site but rather was looking for the combination that would preserve and protect the residential community and the merchant interests in the area and still be in the best interest of the City The Chairman had discussed the letter/offer with Allright and was convinced that they were well aware of the BRA proposal process and decided not to participate in it and reassured them that if the proposal of New England Life were rejected and the City still intended to sell the St. James parcel, a new, open, and public process would be initiated. After a question and answer period, the following information contained in a series of whereases

was reviewed by the Board and made a part of this record:

WHEREAS: On November 1, 1982, the Real Property Board voted to delegate to the Boston Redevelopment Authority through the Public Facilities Commission full authority to study and establish criteria for the disposition of certain City-owned garages including the St. James Avenue Garage and related real estate (hereinafter the St. James Avenue Garage Parcel) as well as to advertise and seek developer proposals regarding such garages.

WHEREAS: On November 16, 1982, the Public Facilities Commission voted to delegate full authority to the Boston Redevelopment Authority to carry out the vote of the Real Property Board taken on November 1, 1982, regarding the study and disposition of various City-owned garages including the St. James Avenue Garage.

WHEREAS: On or about November 24, 1982, the Boston Redevelopment Authority advertised, in various newspapers, the Request for Proposals for development and disposition of the St. James Avenue Garage Parcel. Included therein were design and development guidelines for the St. James Avenue Garage Parcel which mandated, among other things, the replacement of 625 public parking spaces as part of a mixed use development.

WHEREAS: In December, 1982, two appraisals of the St. James Avenue Garage Parcel were submitted to the Real Property Department. The appraisals concluded that the fair market value of the St. James Avenue Garage Parcel was $5,400,000 according to International Appraisal Company and $6,050,000 according to Robert J. Flanagan, M.A.I.

WHEREAS: On January 10, 1983, one development proposal was submitted to the Boston Redevelopment Authority regarding the St. James Avenue Garage Parcel.

WHEREAS: After extensive review of the proposal by the Boston Redevelopment Authority staff, the Boston Redevelopment Authority Board voted on December 8, 1983 to accept the recommendation of the Director that New England Mutual Life Insurance Company and Gerald D. Hines Interest be designated tentative developer of the St. James Avenue Garage Parcel.

WHEREAS: The Real Property Board has reviewed the Boston Redevelopment Authority Board vote and recommendation of December 8, 1983, as well as the previously mentioned appraisals of the St. James Avenue Garage Parcel.

WHEREAS: The purpose of Chapter 474 of the Acts of 1946, as amended, which is to promote the free circulation of traffic will not be negatively affected by the disposition of the St. James Avenue Garage Parcel to a private owner since the conditions of the Boston Redevelopment Authority's tentative

developer designation requires the Developer to replace the 625 public parking spaces, which are presently available, in any new facility constructed on or about the Parcel.

WHEREAS: Disposition of the St. James Avenue Garage Parcel is in the public interest because the City will no longer be required to bear the cost of capital repairs, debt service or administration of the Garage nor will the City continue to bear the loss of real estate tax revenue due to the present tax exempt status of such Parcel.

WHEREAS: The St. James Avenue Garage is presently in need of extensive renovation work at significant expense to the City.

WHEREAS: Disposition of the St. James Avenue Garage Parcel will directly benefit the public as it will result in the immediate receipt of $7,766,400 of new revenue to the City. Furthermore, the City will receive substantial annual real estate tax revenues once the Garage is privately owned as well as additional tax revenues when the planned development is constructed on the Parcel and surround area.

WHEREAS: it is in the public interest to maintain the operation of the St. James Avenue Garage by the City until the time of final disposition thereof.

On motion duly made and seconded, it was three Board Members for and one Board Member against (Thomas F. Kelly, Jr.)

VOTED: Pursuant to the authority vested in it by Chapter 474 of the Acts of 1946, as amended, and subject to the terms and conditions set forth herein, the Real Property Board hereby determines and declares the off-street parking facility, including the land, air rights and structures thereon, located at 85 St. James Avenue, Boston and bounded by St. James Avenue, Providence Street, Clarendon Street and Berkeley Street, subject to all easements and encumbrances of record and commonly known as the St. James Avenue Garage, to be no longer required for the purposes of Chapter 474 of the Acts of 1946, as amended.

Provided further, that the Chairman shall notify the Public Facilities Commission of this vote and shall request the Commission to take all necessary action for the transfer of the St. James Avenue Garage Parcel to it as surplus property by vote of the Boston City Council pursuant to Section 24 of Chapter 190 of the Acts of 1982 and any other applicable laws.

This determination is made subject to the following terms and conditions:

1. That all of the involved parties shall comply with the requirements, procedures, and conditions as voted by the Boston Redevelopment Authority Board on December 8, 1983, regarding the tentative developer designation of New England Mutual Life Insurance Company and Gerald D. Hines Interest developer of the St. James Avenue Garage Parcel. The aforementioned requirements, procedures and conditions are set forth in the documents entitled "Terms and Conditions

for Tentative Developer Designation of St. James Avenue Garage Parcel," which documents are attached hereto and incorporated herein.

2. That the St. James Avenue Garage Parcel be ultimately disposed of in accordance with the development process set forth in the aforementioned vote of the Boston Redevelopment Authority Board and all applicable laws.

3. That [upon transfer of the St. James Avenue Garage Parcel by the Boston City Council to the Public Facilities Commission, the Public Facilities Commission shall delegate interim care and maintenance of such Garage to the Real Property Department until the time for final disposition thereof.]

4. That the St. James Avenue Garage shall remain open and operational as a public parking facility under the care and oversight of the Real Property Department until the time that ultimate disposition of such Garage is to occur.

It was also three Board Members for and one Board Member against (Thomas F. Kelly, Jr.)

VOTED: That the Chairman be and is hereby authorized and empowered by the Real Property Board to take all such action deemed necessary and appropriate to the disposition of the St. James Avenue Garage and the related real estate in accordance with the vote of December 8, 1983 of the Boston Redevelopment Authority Board.

The Chairman discussed the technical need in accordance with the lease of sending out a thirty day advance notice (as requested by our legal counsel Palmer & Dodge) of termination of lease and tenancy of Kinney System of Sudbury Street, Inc. at the Government Center Garage even though they may be retained by the redevelopers of this parcel to manage the facility. On motion duly made and seconded, it was three Board Members for with Thomas F. Kelly, Jr. voting present

VOTED: To ratify the action of Commissioner Thomas J. Long, Jr. in sending out a thirty day advance notice of termination of lease and tenancy of Kinney System of Sudbury Street, Inc. effective December 31, 1983, at the Government Center Garage, said notice dated November 30, 1983.

Board Member Thomas J. Long, Jr. arrived at the meeting at this time.

The Chairman addressed the Board on the future openings of the Lafayette Place Garage, Retail Space, and Hotel and on the topic of the Lafayette Place Project expanding to the contiguous Hayward Parcel (Lafayette Place Stage II).

Attorney Whitkin explained the Developer's option to purchase either the air rights over or the fee to the Hayward Parcel. Section 6.02 of the Tripartite Agreement (re:option) along with a map of the Land assemblage, and a draft of a proposed option letter to the developer were disseminated to the Board Members. A question and answer period ensued with emphasis on interim use of the land, with a final determination of the option issue to take place on Friday, December 16, 1983. In this vein, if the project is to be expanded, and in order to retain some continuity, it would make sense to extend the Special Assistant Contract beyond March 1, 1984. Action on this item was postponed until the next Board Meeting.

There being no further business, on motion duly made and seconded, it was unanimously

VOTED: To adjourn at 11:35 a.m.

ATTEST:

Richard M. Carter

Richard M. Carter
Executive Secretary
REAL PROPERTY BOARD

MEMORANDUM DECEMBER 8, 1

TO: BOSTON REDEVELOPMENT AUTHORITY

FROM: ROBERT J. RYAN, DIRECTOR

SUBJECT: ST. JAMES AVENUE, RECOMMENDING TO THE CITY OF BOSTON, ACTING BY AND THRO THE PUBLIC FACILITIES COMMISSION, THE TENTATIVE DESIGNATION OF NEW ENGLA MUTUAL LIFE INSURANCE COMPANY AND GERALD D. HINES INTERESTS AS REDEVELOP OF THE ST. JAMES AVENUE GARAGE AND ADJACENT PUBLIC PARCEL AND PRIVATE LA AREAS IN THE BACK BAY.

The Authority, on November 21, 1982, authorized the advertisement for development interest for the St. James Avenue Garage site. The Authority, at the time was act under the delegation of powers from the Public Facilities Commission and the Bosto Real Property Board. The total parcel advertised for development interest was approximately 69,191 square feet, including the garage site and adjacent Providenc Street to be discontinued between Berkeley and Clarendon Streets.

As a result of the solicitation for development interest, the Authority received o proposal. This development submission was made to the Authority by New England Mutual Life Insurance Company and Gerald D. Hines Interests.

Because this proposed development site is located in the center of the Back Bay, t Authority invited local resident, business and cultural leaders to participate in forming a Civic Advisory Committee (CAC) to represent the interests and concerns o the Back Bay and adjoining South End communities. The CAC has representation from the Back Bay Architectural Commission, Back Bay Association, Back Bay Federation, Boston Society of Architects, Ellis Neighborhood Association, Neighborhood Associat of the Back Bay, Newbury Street League, Trinity Church, and the State Representativ from the 8th Suffolk District.

This group has worked closely with the Authority over the last nine months on reviewing the development submission for the St. James Avenue site. In addition, proposal was subjected to a detailed review process by Authority staff, including analysis of compliance with the Design and Development Guidelines.

The joint venture submission of New England Mutual Life Insurance Company and Gera D. Hines Interests meets these initial guidelines as well as the Resolution submit to the Authority by the St. James Avenue Civic Advisory Committee (attached). Therefore, I am recommending the designation of New England Mutual Life Insurance Company and Gerald D. Hines Interests. Their proposal will greatly benefit the Ci and is consistent with the overall development guidelines. A positive aspect of t submission results from New England Life already owning or controlling an addition 67,800 square feet of land adjacent to the advertised site along Boylston Street which dramatically improves the quality of development consistent with the Back Ba neighborhood and maximizes the benefits to the City in resulting taxes.

The development will be a mixed-use development consisting of 1,200,000 square fe of office space; 100,000 square feet of retail space in the first and second floo approximately 1,000 parking spaces below grade of which a minimum of 625 spaces w be available as public parking (no fewer than 315 spaces designated for short-ter daily use). The maximum F.A.R. will not exceed 9.5 and the maximum height will n exceed 90 feet along Boylston Street and will not exceed 345 feet to the parapet on the St. James Avenue garage parcel. A minimum building setback line of 25 fee along Boylston Street and 15 feet along St. James Avenue, Berkeley Street and Clarendon Street shall be maintained except for minor projections of decorative architectural details. This setback is consistent with historical patterns in th vicinity of the project. The Authority shall require that total construction of project be completed in a single phase to minimize construction disruption from t project and to assure the integrity of the architectural solution.

The development has been designed by the internationally known firm of John Burge Architect and Philip Johnson. The building will be located on the approximately 137,000 square foot development parcel which combines the previously described ci parcels and the previously assembled private parcels of New England Mutual Life Insurance Company. The development will become in part the Corporate-World headq for New England Life. The total development cost will be approximately $280,000,

The development will produce significant financial and economic benefits to the C The combined payment for land area including the garage and discontinued street a will result in a $7,766,400 payment to the City for land and acquisition. In addition, the development will produce approximately $8,000,000 annually in new t revenue to the City from a site that is presently yielding no more than $625,000 the City. It will generate over 3,000 construction jobs and over 4,000 new perma jobs beyond the estimated 800 individuals who work on the Boylston Street block today; and the 1,000 space garage will replace the 625 space public garage with n below grade public parking spaces to satisfy new and existing transportation need the Back Bay.

Importantly, this development will be subject to the City of Boston Policy on Lin Between Downtown Development and Neighborhood Housing. As a result of that polic the developers have agreed that the resulting development will produce approximat $6,000,000 of income over a 12 year period for the creating of low to moderate in housing within the City's neighborhoods.

The City will continue to operate the St. James Avenue Garage and receive the rev generated therefrom until final disposition to the developers. The development w be subject to continuing design review approval contained in the Terms and Condit for Tentative Designation attached hereto.

The Authority, through an initial design review process and with direct review and consultation from the Civic Advisory Committee, has significantly reduced the building bulk and mass and height; the F.A.R. has been reduced from the previously proposed 11.45 to an F.A.R. not to exceed 9.5, and from a height of 397 feet to a height not to exceed 345 feet. The revised proposal has been extensively reviewed with the Civic Advisory Committee and has met with their unanimous approval subject to the "Resolution of the St. James CAC of December 6, 1983".

The Authority is therefore recommending that the so-called St. James Avenue Garage and adjacent Providence Street (a public way) be tentatively designated to the joi venture of New England Mutual Life Insurance Company and Gerald D. Hines Interests all subject to the terms and conditions as outlined in the attached document entit "Terms and Conditions for Tentative Developer Designation of St. James Avenue Gara Parcels." Such Terms and Conditions are hereby incorporated into the recommendati by reference. In addition, the Authority will use good faith efforts to implement the December 6th Resolution of the St. James Avenue Civic Advisory Committee, including refinements as necessitated through further review of development implications.

VOTED: That the Authority recommends to the City of Boston, acting by and through its Public Facilities Commission the tentative designation the joint venture of New England Mutual Life Insurance Company and Gerald D. Hines Interests, as redevelopers of the St. James Avenue Garage facility and adjoining Providence Street, a public way; said recommendation is subject to the incorporation of the terms and conditions as set forth in the document dated December 8, 1983, attached hereto entitled, "Terms and Conditions For Tentative Devel Designation of St. James Avenue Garage Parcels;" and said designati is subject to all easements of record.

DECEMBER 8, 1983

TERMS AND CONDITIONS FOR TENTATIVE DEVELOPER DESIGNATION OF ST. JAMES AVENUE GARA PARCELS

1. CIVIC REVIEW PROCESS
The Authority will use good faith efforts to implement the attached Decembe Resolution of the St. James Avenue Civic Advisory Committee, which is theret made a part of these Terms and Conditions.

2. DISPOSITION PRICE
A disposition price of $7,766,400 will be paid to the City upon the conveya of the garage parcel and underlying fee of Providence Street as described i Development and Design Guidelines for the St. James Avenue Garage Parcel.

3. BUILDING BULK
The maximum floor area ratio as defined in the Boston Zoning Code shall no exceed 9.5 on the overall development site and shall not exceed 1,300,000 s feet of gross floor area including 100,000 square feet of retail space.

4. BUILDING HEIGHT
The height shall not exceed 90 feet to the top of the parapet along Boylsto Street and shall not exceed 345 feet to the top of the parapet on the St. J Avenue Garage Parcel.

5. BUILDING SETBACK
A minimum building setback line of 25 feet along Boylston Street and 15 fee along St. James Avenue, Berkeley Street and Clarendon Street shall be provi except for minor projections of decorative architectural details.

6. USES
Proposed retail space along Boylston Street should comprise no less than 10 square feet of gross floor area in the first and second floors.

7. OFF-STREET PARKING
The Authority requires that the underground parking garage contain 1,000 spa of which a minimum of 625 are considered public parking spaces. No fewer th 315 public spaces shall be designated for short-term "In-Out" daily use and balance of the 625 spaces shall be publicly marketed in accordance with a management plan which must receive prior approval of the Director.

8. OFF-STREET LOADING
The feasibility of enclosed loading docks along St. James Avenue should be further reviewed with the Authority.

9. CONSTRUCTION PHASING
The Authority requires that total construction of the project be completed single phase.

10. STABILITY OR STRUCTURES
The Authority requires the developer to establish and fund an Authority sponsored monitoring and review of the impact of the proposed design and construction on subsurface conditions and the St. James Avenue sewer line.

11. IMPACTS ON WATER TABLE
The Authority and developer will jointly fund an independent study of the B

12. ENVIRONMENTAL IMPACT REPORT

The Authority shall require the submission of a broadly scoped Environmental Impact Report which is consistent with the requirements of M.G.L.c. 30, S62- and this requirement shall also be communicated to the Massachusetts Secreta of Executive Office of Environmental Affairs.

13. DESIGN REVIEW PROCESS

The Authority requires submission of design drawings for review and approval three phases in the design review process in accordance with submission requirements normally followed by the architectural profession and the Authority:

a. Schematic Design Drawings and other design studies in accordance wi the December 6, 1983 Resolution of the St. James Avenue Civic Advis Committee;

b. Design Development Drawings and Outline Specifications; and

c. Working Drawings and Final Specifications.

This design review process will include Authority review and approval of all exterior materials and all materials located in interior spaces accessible t the public and shall include review and approval of all changes from the approved drawings that may occur during the construction period.

14. LINKAGE

The developer shall comply with the linkage policies as presented in the re of the Advisory Group on Linkage Between Downtown Development and Neighborh Housing, issued on October 14, 1983.

15. REAL ESTATE TAXES

Real estate taxes for the new development will be paid according to normal C of Boston Chapter 59 Assessing Department practices.

RESOLUTION OF THE
ST. JAMES AVENUE CIVIC ADVISORY COMMITTEE
December 6, 1983

The St: James Avenue Civic Advisory Committee passed unanimously by voice vote the following resolution:

WHEREAS Robert J. Ryan, Director of the Boston Redevelopment Authority ("BRA") notified the St. James Avenue Civic Advisory Committee ("CAC") on November 16, 1983 of his proposed recommendations to the Board of Directors of the BRA (the "Board"); and

WHEREAS the CAC under its contract with the BRA has the opportunity to consider the Director's conclusions and render comments for consideration by the Director and the Board;

WHEREAS the citizen's review process to date has resulted in significant contributions in project concepts beneficia to the neighborhood, the business community, and the city at large, and expects that the ongoing review will help balance the legitimate neighborhood, commercial, design an developer interests; and

WHEREAS the proposed St. James Avenue Garage project is in close proximity to residential areas and historic buildings, its appearance and function have more direct impact on citizens of Boston than any of the other garage properties being sold by the City;

NOW, THEREFORE,

Be it resolved that the CAC:

1. Supports tentative designation of Hines/NEL as developer of the St. James Avenue Garage and the proposed disposition of the St. James Avenue Garage an of that portion of Providence Street between Berkeley and Clarendon Streets;

2. Supports the Director's recommendations to his Board. However, the CAC requests that Hines/NEL study and provide designs which reduce the building height while serving its needs of function and marketability. Also, the CAC understands that setback lines referred to by the Director's recommendations refer to building lines, as opposed to glass lines;

3. Requests that the contract between the BRA and the CAC dated June 8, 1983 be amended in the following respects:

   a. to add the Ellis Neighborhood Association, Inc. a a CAC member and party to the contract;

   b. to extend the term of the contract to December 31 1986; and

   c. to provide that the contract shall be binding upo and inure to the benefit of the BRA, the CAC and its members, and each of their successors and assigns;

   and that such amendments be approved by the Board at its next meeting;

4. Notifies all parties that the CAC as yet has reviewed the Project only with respect to fundamental issues which relate to no specific design. It is now necessary to review and comment on the specific proposed design in detail, including but not limited t massing, style, loading dock location and parking access. The CAC expects to be given sufficient time to carefully review design and function of the specific plans in dialogue with the BRA. This review will require a period of 45 days, commencing on the date of submission to the CAC of plans conforming with the design controls. This review may be extended if substantial changes in proposed design are submitted during this period;

5. Supports the Developer's desire to promptly enter the PDA zoning process upon completion of design review as described in paragraph 4, above;

6. Recognizes that continued development at currently allowed densities would cause changes, if not sensitively controlled, that may damage surrounding neighborhoods. The CAC recommends that the appropriat city agencies, in cooperation with appropriate civic groups, study a new comprehensive zoning plan includin review of the feasibility of downzoning for the Back Bay commercial area. Since such zoning was last reviewed, several large scale projects are likely to b completed by 1987 which will nearly double the commercial activity in the area. It is appropriate to systematically study the effects of such concentrated growth to recommend changes, if any, to promote the goals of enhancing the liveability and mixed income makeup of the neighborhoods and enhancing the small scale retail shops and businesses on Newbury Street which give the street its special character. The CAC strongly urges the completion of such a study prior to approval of additional large scale projects in the Bac Bay commercial area;

7. Requires that the Environmental Impact Review include the effects of the additional parking proposal for the National Garage;

8. Requests that consideration be afforded tenants displaced by the Project ~~such that they are~~ permitted to remain in their premises as long as practicable; an

9. Requires as a condition of its endorsement of the Director's recommendations that the Director support this resolution and urges the Board to adopt the statements herein as policy.

EXHIBIT P

[To be supplied by the Authority]

EXHIBIT P-1

ARCHITECTURAL DRAWING LIST

DRAWING NO.	TITLE	DATE
A2.01	Site Survey	9/27/85
A2.03	Ground Floor Plan	9-27-85
A2.04	Ground Floor East	9-27-85
A2.05	Ground Floor West	9-27-85
A2.06	Site Plan Details	9-27-85
A2.07	Site Plan Details	9-27-85
A2.08	Site Details	9-27-85
A2.09	Plaza Fountain & Details	9-27-85
A3.01	Level P-3	9-27-85
A3.02	Level P-2	9-27-85
A3.03	Level P-1	9-27-85
A3.04	Miscellaneous Mechanical & Equip. Rm.	9-27-85
A3.05	Floor 2 Plan	9-27-85
A3.06	Ground Floor & Floor 2 Core Plans	9-27-85
A3.07	Dock & Central Plant Core Plans	9-27-85
A3.08	Floor 3 Plan	9-27-85
A3.09	Floor 4-5 Plan	9-27-85
A3.10	Floor 6 Plan	9-27-85
A3.11	Floor 3-5 and 6 Core	9-27-85
A3.12	Roof Plan	9-27-85
A3.13	Floor 7 Plan & Core	9-27-85
A3.14	Floor 8 Plan & Core	9-27-85
A3.15	Floor 9-18 Plan & Core	9-27-85
A3.16	Floor 19 Plan & Core	9-27-85
A3.17	Floor 20 Plan & Core	9-27-85
A3.18	Floor 21-24 Plan & Core	9-27-85
A3.19	Floor 25 Plan & Core	9-27-85
A3.20	Mechanical Penthouse & Roof Plan	9-27-85
A3.21	Paving Plan & Lobby	9-27-85
A3.22	Level P-3/Parking Layout Plan	9-27-85
A3.23	Level P-2/Parking Layout Plan	9-27-85
A3.24	Level P-1/Parking Layout Plan	9-27-85
A4.01	Boylston St. Elevation	9-27-85
A4.02	Berkley & Clarendon Sts. Elevations	9-27-85
A4.03	St. James Ave. Elevations	9-27-85
A4.04	Boylston St. Low-Rise Elevation	9-27-85
A4.05	Clarendon St. Low-Rise Elevation	9-27-85
A4.06	St. James Ave. Low-Rise Elevation	9-27-85
A4.07	Plaza Elevations	9-27-85
A4.08	Plaza Elevations Pedestrian Passageway	9-27-85
A4.09	Top of Tower - Ornamentation	9-27-85
A4.10	Top of Tower	9-27-85
A4.11	Low-Rise Elevations	9-27-85
A4.12	Low-Rise Elevations	9-27-85
A5.01	Building Longitudinal Section	9-27-85
A5.02	Building Cross Section	9-27-85
A5.03	Mechanical Penthouse Sections	9-27-85
A5.04	Truck Dock & Mechanical Rm. Sections	9-27-85
A5.05	Ramp Plans	9-27-85
A5.06	Ramp Plans	9-27-85
A5.07	Ramp Sections	9-27-85

A6.01	Ellipse Plan Details	9-27-85
A6.02	Ground Floor Exterior Column Plan Details	9-27-85
A6.03	Ground Floor Exterior Column Plan Details	9-27-85
A6.04	Column Plan Details Floor 3-6 Exterior	9-27-85
A6.05	Column Plan Details Floor 3-6 Exterior	9-27-85
A6.06	Floor 7-24 Exterior Column Plan Details	9-27-85
A6.07	Floor 25 Exterior Column Plan Details	9-27-85
A6.08	Curtain Wall Sections	9-27-85
A6.09	Curtain Wall Sections	9-27-85
A6.10	Curtain Wall Sections	9-27-85
A6.11	Curtain Wall Sections	9-27-85
A6.12	Curtain Wall Sections	9-27-85
A6.13	Store Front Details	9-27-85
A6.14	Curtain Wall Details	9-27-85
A6.15	Curtain Wall Details	9-27-85
A6.16	Entrance Door Details	9-27-85
A6.17	Revolving Door Details	9-27-85
A6.18	Overhead Door & Louver Details	9-27-85
A6.19	Pedestrian Passageway Plan Details	9-27-85
A6.20	Roof Details	9-27-85
A6.21	Curtain Wall Sections	9-27-85
A7.01	Stair Sections	9-27-85
A7.02	Stair Sections	9-27-85
A7.03	Stair Plans and Details	9-27-85
A7.04	Elevator Passenger Cabs & Details	9-27-85
A7.05	Elevator Service Cabs & Details	9-27-85
A7.06	Elevator Hoistway Sections	9-27-85
A7.07	Elevator Details	9-27-85
A8.01	Finish & Door Schedules	9-27-85
A8.02	Door Details	9-27-85
A8.03	Partition Schedule	9-27-85
A8.04	Interior Column Details	9-27-85
A9.01	Tower Lobby Elevations Details	9-27-85
A9.02	Toilet Room, Elevations & Details	9-27-85
A9.03	Lobby Sections	9-27-85
A9.04	Garage Shuttle Lobby Elevations & Details	9-27-85
A9.05	Lobby Elevations	9-27-85
A9.06	Lobby Elevations	9-27-85
A9.07	Lobby Elevations	9-27-85
A9.08	Lobby Details	9-27-85
A9.10	Ground Floor Reflected Ceiling Plans	9-27-85
A9.11	Garage & Truck Dock Details	9-27-85
A9.12	Ground Floor Reflected Ceiling Plan	9-27-85
A9.13	Reflected Ceiling Plan Floors 3-6	9-27-85
A9.14	Typical Tower Reflected Ceiling Plan & Details	9-27-85
A10.01	Tenant Standards	9-27-85

MEP DRAWING LIST

DRAWING NO.	TITLE	DATE
FM-1	Notes & Symbols	7-3-85
FM-2	Schematic Piping Diagram	7-3-85
FM-3	Piping Plans	7-3-85
FM-4	Equipment Space Plans & Sections	7-3-85
FM-5	Installation Details	7-3-85
FM-6	Installation and Adjustment Details	7-3-85
FM-7	Exterior Fountains Fitting and Piping Details	7-3-85
FM-8	Installation & Fabrication Detials	7-3-85
FE-1	Electrical Plans & Symbols	7-3-85
FE-2	Equipment Space Power Systems	7-3-85
FE-3	Control Wiring Diagrams for CPA	7-3-85
FE-4	Control Wiring Diagrams for CPB	7-3-85
FE-5	Control System Operation for CPA & CPB	7-3-85
FE-6	Control Wiring Diagrams & Systems Operation for CPC	7-3-85
FE-7	Electrical Details	7-3-85
L1.01	Planting Plan	9-27-85
P-1	P-3 Level	9-26-85
P-2	P-2 Level	9-26-85
P-3	P-1 Level	9-26-85
P-4	Ground Floor Plan	9-26-85
P-5	Floor 2 Plan	9-26-85
P-6	Floor 3 Plan	9-26-85
P-7	Floor 4-5 Plan	9-26-85
P-8	Floor 6 Plan	9-26-85
P-9	Floor 3-5 & 6 Core	9-26-85
P-10	Low-Rise Roof Plan	9-26-85
P-11	Floor 7 Plan & Core	9-26-85
P-12	Floor 8 Plan & Core	9-26-85
P-13	Floor 9-18 Plan & Core	9-26-85
P-14	Floor 19 Plan & Core	9-26-85
P-15	Floor 20 Plan & Core	9-26-85
P-16	Floor 21-24 Plan & Core	9-26-85
P-17	Floor 25 Plan & Core	9-26-85
P-18	Mechanical Penthouse & Roof Plan	9-26-85
P-19	Fire Protection Riser Diagram	9-26-85
P-20	Domestic Water & Chilled Drinking Water Riser Diagram	9-26-85
P-21	Sanitary Riser Diagram	9-26-85
P-22	Storm Riser Diagram	9-26-85
P-23	Detail Sheet	9-26-85
P-24	Schedule Sheet	9-26-85
USP-1	Utility Site Plan	9-26-85

HVAC-1	Schedule Sheet	9-26-85
HVAC-2	Schedule Sheet	9-26-85
HVAC-3	Detail Sheet	9-26-85
HVAC-4	Detail Sheet	9-26-85
HVAC-5	P-3 Level	9-26-85
HVAC-6	P-2 Level	9-26-85
HVAC-7	P-1 Level	9-26-85
HVAC-8	Ground Floor Plan	9-26-85
HVAC-9	Floor 2 Plan	9-26-85
HVAC-10	Central M.E.R.	9-26-85
HVAC-11	Central M.E.R. Details	9-26-85
HVAC-12	Floor 3 Plan	9-26-85
HVAC-13	Floor 4-5 Plan	9-26-85
HVAC-14	Floor 3-5 & 6 Core	9-26-85
HVAC-15	Floor 6 Plan	9-26-85
HVAC-16	Low-Rise Roof Plan	9-26-85
HVAC-17	Floor 7 Plan & Core	9-26-85
HVAC-18	Floor 8 Plan & Core	9-26-85
HVAC-19	Floor 9-18 Plan & Core	9-26-85
HVAC-20	Floor 19 Plan & Core	9-26-85
HVAC-21	Floor 20 Plan & Core	9-26-85
HVAC-22	Floor 21-24 Plan & Core	9-26-85
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HVAC-24	Mechanical Penthouse & Roof Plan	9-26-85
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BOSTON REDEVELOPMENT AUTHORITY
ONE CITY HALL SQUARE
BOSTON, MASS. 02201

December 19, 1985

Mr. Kenneth S. Moczulski
Gerald D. Hines Interests, Inc.
426 Boylston Street
Boston, Massachusetts

RE: Western Component
Working Drawing Approval
500 Boylston Street, Boston, Mass.

Dear Mr. Moczulski:

We have reviewed your Working Drawing submission of October 3, 1985, and accompanying letters of October 25, 1985 and December 18, 1985. We are pleased to grant working drawings approval subject to submittal of change order drawings indicating the addition of the curved stone at the 32 foot and 87 foot cornices in the courtyards and the scooped corners and the changing of the stone finish of the water table and the applied granite plate at the fifth floor spandrel from flamed to polished Stony Creek.

This approval is based on the plan list attached hereto and specifications submitted October 3, 1985.

In addition, Stony Creek granite is approved as the basic building granite and Napoleon Red as the granite to be used as the decorative checker pattern at the entrances to the office tower (Drawing A6.16/3 and A4.06) and for the Clarendon Walkway entrance (Drawing A4.11/13).

We appreciate the effort of your architect, John Burgee Architects with Philip Johnson, and look forward to the commencement of construction of the Western Component of 500 Boylston Street.

Very truly yours,

BOSTON REDEVELOPMENT AUTHORITY

BY: _____

EXHIBIT Q

Permitted Encumbrances and Encroachments Affecting the Premises.

None

EXHIBIT R

St. James Avenue Civic Advisory Committee

RESOLUTION

The St. James Avenue Garage Civic Advisory Committee adopted the following report at its meeting of July 2, 1984:

THE ST. JAMES AVENUE GARAGE
CITIZENS ADVISORY COMMITTEE
REPORT
TO THE DIRECTOR OF THE
BOSTON REDEVELOPMENT AUTHORITY

JULY 2, 1984

BACKGROUND

The Committee has reviewed the following documents submitted by the BRA and Hines/NEL:

- Site Plan	May 1, 1984
- Ground Floor Plan	May 30, 1984
- Typical Low Rise Floor Plan	May 30, 1984
- Boylston Street Elevation and Study showing revised glazing received	June 13, 1984
- St. James Avenue elevation (except as implicity modified by June 13 central Bay design)	May 1, 1984
- Berkeley Street Elevation	May 1, 1984
- Section through Site looking west	May 30, 1984
- Plan Comparisons	May 30, 1984
- Typical Tower Floor Plan	May 1, 1984

The Committee has also heard the presentations of its members, the Architect for the proposed project, the developers, the staff of the BRA, and members also informally solicited opinion of interested persons.

This report was adopted after full discussion of the relevant issues.

CONCLUSIONS

The Committee recommends to the Director of the BRA that the Hines/NEL Schematic Design for the St. James Avenue Garage and adjacent parcels be approved for a PDA, subject to:

a. Continued design development, and perhaps substantial reorganization, of the ground floor as it relates to parking entrances and egress, and secondary entrances to the courtyards, which should take place during design development. In particular, the Committee would like for the Developer's architect to explore developing entrances to the courtyards from the "scalloped" corners at Berkeley/St. James and Clarendon/St. James, and moving the parking egress and entrances to the mid-block "scallops" on Berkeley and Clarendon Streets.

b. The two towers as they are now configured yield from most perspectives the appearance of a high, continuous wall - an imposing and unflattering appearance when viewed from several blocks distant at an angle to the principal axes of the tower. The Committee suggests that the Developer and Architect explore devices to ameliorate this condition. Among the many suggestions by the Committee were reentrant corners and making the tower plan more square.

Further, in the course of design development, the Committee also recommends exploration of the following:

1. Consideration be given to allowing no above-ground portion of the building to extend beyond the 15 foot setback line on St. James Avenue.

2. Consideration be given to setting the tower back from St. James Avenue. In addition to diminishing the "canyonization" of the block, the setback has the additional advantage of avoiding winds at pedestrian level with greater certainty.

3. While recognizing the substantial improvement to the loading dock design in the latest submission, consideration be given to making the loading dock below grade without loss of parking, increasing the depth of the excavation, or extending the boundaries of the excavation.

Some members of the Committee believe that the courtyards should be studied more fully, including possibly providing a glass roof to protect the interior retail areas from the elements, making the space more lively, useable and productive on a year-round basis. In addition, the matter of security in the open courtyards is currently unresolved. While the majority does not concur, the proposition of weather-protected courtyards demonstrates a circumstance of a reasonable difference of opinion.

The Committee is pleased with many other aspects of the project, and assumes that these important elements will remain as part of the final design. Specifically the committee believes (a) the mixed uses are appropriate; (b) the below grade parking is beneficial; (c) maintaining the 90 foot Boylston Street cornice is good, coupled with (d) placing the higher elements on the St. James Avenue side of the parcel; (e) the present materials selection is commendable; (f) the richness of detail should be preserved.

The Committee hereby concludes its recommendations to the Director at this stage of the approval process, unless the Director wishes further advice or clarification, or unless the submission by the Developer changes. The Committee appreciates the opportunity to represent the residential and business community in the review of the project. The Committee also wishes to commend the BRA Director and staff and the Developer and its architect in the responsible manner in which this review process has been allowed to proceed.

M E M O R A N D U M

Subject: St. James Ave. Parcel/NEL
From: Messers Gritter, Johnson, Padjen.
Date: 2 July '984

To the Members of the Civic Advisory Committee.

Recognizing the limited number of design issues open for further discussion, four issues have been singled our that are of special concern to the members noted above.

- The St. James Avenue set back.
- The vehicle exit to Berkeley Street.
- The close proximity of the towers, one to the other.
- Climatic control and security of the court yards.

1. The St. James Avenue set back.

a) The street should not be regarded as a service street without amenity to the Back Bay.

b) The street must be recognized for its importance as the west bound link to the Massachusetts Turnpike, and that this traffic will increase in proportion to the increasing density in the Back Bay.

c) The service traffic to NEL, will be at least equal to the volume of service vehicles serving John Hancock Buildings on the opposite side of the street. The curb to curb dimension is only 34'-6" wide, substantially less than the width of the street east and west of the site.

d) The 6 story structure is set back 15'-6" from the curb, as compared to the 24'-0" ± set back of the John Hancock Buildings. The buttresses of the 63" wide entrances are set back only 12'-6", though the glass line appears to be set back to the general glass line on St. James Avenue.

e) 729' high towers inconsistantly provides a shear drop, crowding out the sky, unlike the upper structure set back of the John Hancock Clarendon Street Building, and the Liberty Mutual Building. The Park Square Building, though a simple verticle plane on the southerly-face (indeed all faces) is set back about 22 feet from an alignment of the St. James Avenue (Parcel) curb line.

f) The Back Bay is very different from the down town Boston financial district. In the case of the latter, Urban design policy recognizes the extremely high density requirements that results in site utilization to its fullest possible extent.

But that is not an acceptable norm for Urban design policy for the Back Bay. Corporate Giants must recognize the clear distinction for design

policy in the several parts of the City and that certain design standards are not appropriately transferred from one section to the other. It is not appropriate for masses as large as those proposed to crowd the curb line as closely as the current proposal.

g) It is recommended that the towers be shifted a minimum of 5 feet north of the general mass of the 6 story structure on St. James Avenue. The studies prepared for this discussion indicate this to be an effective change from the current design proposal, to reduce the sense of congestion.

h) It is recommended that the BRA consider this change.

2. The traffic exit on Berkeley Street is unresolved. Clearly this is an area of responsibility by the Traffic Consultants, though we have not been given alternate solutions to date.

The suggestion proposed at the recessed center line of 6 story structure provides the sight lines required, but is only one of many possible solutions.

It is our responsibility to advise the BRA that the current proposal is unsafe and unacceptable.

3. The spacing between the towers has often been a topic of discussion. In the course of our deliberations, the drawings of 1 May set that spacing at or about 48 feet and a drawing of 20 May indicate 51 feet.

a) Because the towers will generally not be seen in direct elevation, the space between the two towers cannot be appreciated. The two masses will be seen as one broken mass.

b) Ken Critter has suggested that notched corners will greatly increase the sight lines between the two masses. It will also double the number of corner offices at a modest reduction in area.

c) This proposal also improves the relationship of the towers to the 6 story base structure on St. James Avenue.

d) It is recommended that the BRA consider the corner set back configuration proposed to improve the close relationship between the towers.

4. The roof gardens have also been discussed many times. There are many issues involved. It have not been fully addressed.

a) The winter scene on the north side of the towers lacks resolution concerning snow removal and ice melt. Winter conditions in Boston must be taken into account.

b) Security, 5 p.m. to 6 a.m., is less than convincing. Personal safety is a very real issue. Locked gates will no doubt allow

The security of merchandise is an issue. The Boston grate is not an acceptable solution. ½" thick sheets of laminated glass is better.

c) Both questions may be more properly addressed as a six story glazed atrium.

d) A more remote entrance near the corners of St. James and Berkeley Streets and at St. James and Claredon Streets is recommended.

END OF MEMORANDUM

Boston Redevelopment Authority

EXHIBIT S

July 12, 1984

Mr. Joseph W. O'Connor
President
Copley Real Estate Advisors
535 Boylston Street
Boston, MA 02116

Dear Joe:

I am writing to confirm the acceptance of the "500 Boylston Street Schematic Design Submission" dated May 1, 1984 (including additional plans submitted on May 30, 1984). I assert this approval with benefit of the St. James Avenue CAC report to the BRA Director dated July 2, 1984.

As a condition of this approval, I am requiring the sponsors (NEL-Hines) to further study the following areas:

1. Solutions which can increase the separation between the two office towers, thereby addressing both the massing concerns and the appearance of a high continuous wall;

2. Study in Design Development, the location and design of the automobile parking ingress and egress on Berkeley and Clarendon Streets;

3. Study in Design Development, the location and design of pedestrian circulation for Berkeley and Clarendon Steets to the public courtyards;

4. The submitted setbacks, at the ground level and above are acceptable. However, the BRA is further interested in the results of the environmental wind study as it relates to pedestrian inpacts on St. James.

5. The sponsors have already provided interior loading dock and service design at the request of the BRA and CAC off of St. James. The precise circulation should be provided during design development.

1 City Hall Square
Boston, Massachusetts 02201
(617) 722-4300
Boston Redevelopment Authority is an Equal Opportunity / Affirmative Action Employer

These items represent areas of general concern to the BRA and neighborhood. Responses should be viewed in consideration of both design solutions as well as maintaining the financial and market feasibility of the project. This approval letter shall be incorporated by reference into the St. James Garage Sale and Construction Agreement, Section 302(c). In addition, the full CAC report shall be incorporated by reference in the Sale and Construction Agreement.

It is also important to assert that nothing in this design approval letter is intended to mitigate agreements between the sponsors, the BRA and CAC relative to obligations to complete required environmental studies, as well as determining mutually acceptable construction monitoring procedures.

It is also specifically noted that this Schematic Design Approval is sufficient to proceed into the PDA process which is both the sponsors' preference and provided for in the CAC report to the BRA Director. It is also understood that the sponsors will proceed into design development in reliance on this approval.

I join with the CAC in their desire to have:

- the mixed use program for the project
- below grade parking
- the 90-foot Boylston Street cornice line
- placing the two towers on St. James
- the quality of the materials proposed
- the richness of the detail in this design.

I would like to commend the membership of the CAC for their extraordinary effort in establishing the highest standard of cooperation in reviewing this project. I would further commend the New England Mutual Life Insurance Company, Gerald D. Hines Interests, Johnson-Burgee and Meredith & Grew, Incorporated for the high standard of cooperation and quality in product.

Sincerely,

Robert J. Ryan

Doc #4707

HALE AND DORR
COUNSELLORS AT LAW
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
60 STATE STREET
BOSTON, MASSACHUSETTS 02109
(617) 742-9100

CABLE HAFIS BSN
TELEX 94-0472
TELECOPIER
DOMESTIC (617) 367-6133 (617) 742-9108
INTERNATIONAL (617) 367-6180

WASHINGTON OFFICE
1201 PENNSYLVANIA AVE., N.W.
WASHINGTON, D.C. 20004
(202) 393-0800
CABLE HAFIS WSH
TELECOPIER (202) 393-4497

December 20, 1985

Boston Air Pollution Control Commission
Room 813
Boston City Hall
One City Hall Square
Boston, Massachusetts 02201

Attention: Mr. Geoffrey Boehm

Re: 500 Boylston Street/Parking Freeze Permit Application

Gentlemen:

In connection with the proposed construction of a parking facility to be included in the 500 Boylston Street Project, I enclose for submission to the Boston Air Pollution Control Commission separate parking freeze permit applications for the Western and Eastern Components of the Project and a letter requesting an exemption from the parking freeze for tenant parking spaces in each of the Components. I have also enclosed for your information copies of the Parking Management Plan and Memorandum of Understanding concerning traffic control agreed upon between the Boston Redevelopment Authority and New Mutual Life Insurance Company/Gerald D. Hines Interests, Inc. I understand that the Commission will take up this matter at its January 30, 1986 hearing.

Please feel free to call if you have any questions about these enclosures.

Very truly yours,

Richard J. Kaplan

RJK:md

Enclosures

cc: Mr. Michael Harrity
Mr. Kenneth S. Moczulski

bcc: Mr. Joseph W. O'Connor
Mr. E. Staman Ogilvie
William J. Salisbury, Esq.
Mr. Thomas D. Owens
Mr. Brian L. P. Fallon
Daniel J. Kelliher, Esq.
Elizabeth C. Ross, Esq.
John D. Hamilton, Jr., P.C.
Vincent P. McCarthy, P.C.
Robert C. Santomenna, Esq.
Melvin R. Shuman, Esq.
Stephen H. Oleskey, Esq.
Stephen A. Jonas, Esq.
Ms. Cindy Capo

CITY OF BOSTON AIR POLLUTION CONTROL COMMISSION
APPLICATION FOR PARKING FREEZE PERMITS

1. Name and Address of Facility:

   Western Component
   500 Boylston Street
   Boston, Massachusetts 02116

2. Name and Address of Land Owner:

   See Exhibit I.

3. Name and Address of Lessee:
   (if different from owner)

   Not known at this time.

4. Parcel Number of Land:
   (Assessing Dept.)

   Ward 4, Parcel Nos. 1092, 1092-1, 1093, 1096, 1099, 1100, 1102, 1103 and the portion of Providence Street between Berkeley and Clarendon Streets (no parcel number)

5. Type of Facility:

   Lot: _____

   Garage: 3-level, below-grade facility and additional temporary parking described in attached Addendum.

6. Type of Request:

	Number of Spaces Proposed		
	New	Existing	Total
New Facility	325 permanent 100 temporary		325 permanent 100 temporary
Replacement of Existing Facility		625	625

7. Type of Spaces:

	Number
Commercial	325 permanent
Residential	
Employee	348 (described in separate letter)

Other (describe in detail on separate sheet)	100 temporary (see Addendum)

8. Estimated Commencement: First Quarter of 1986

   Estimated Completion: First Quarter of 1988

9. Please include below a general description of the need for the proposed facility and the type of development and patrons it will serve.

   The proposed parking facility will be located in three levels below grade of a proposed 1,300,000 square-foot office and retail/commercial project to be located in the Back Bay. The construction of the project will necessitate the demolition of the 625-car St. James Avenue Public Parking Facility. The 325 public parking spaces in the Western Component of the proposed project together with the 300 public parking spaces in the Eastern Component of the proposed project (described in a separate application) will replace the eliminated spaces. The 325 spaces in the Western Component will be allocated between 300 public parking spaces for short-term use and 25 public parking spaces to be marketed for use on a monthly basis. Of the 25 public monthly spaces, 20 will be reserved for high-occupancy vehicles such as car pool vans. These parking spaces are greatly needed by the surrounding area.

10. Please indicate the proposed rate structure, per day and per hour, along with the days of the week these rates pertain to, and the type of parking (i.e., valet, self-parking).

    The 300 short-term parking spaces will be available to the public between approximately 9:00 a.m. and 10:00 p.m. seven days a week. During normal business days, at least 100 of the short-term parking spaces will be kept unoccupied until 9:30 a.m. During the business week the rates for public short-term spaces will be commercially competitive for 3 to 4 hours and then increase significantly, thus discouraging parking for more than a few hours. On weekends the spaces will be available and attractive for longer-term parking. No later than 180 days prior to opening the facility, the applicant will submit to the Commission for its review and approval a proposed rate schedule.

    The 25 monthly spaces will be marketed to the public in accordance with a plan to be pre-approved by the Director of the Boston Redevelopment Authority. It is anticipated that the rates charged for these spaces will be equal to that charged to tenants of the office building, as such rates may be adjusted. The current design of the garage indicates that all short-term and car pool parking will be self-parking.

11. Please attach a site plan or floor plan of the proposed lot or garage, showing the location of the facility, the layout of spaces, entry and exist points, and the total square footage of the parking area.

See plan attached as Exhibit II showing the first level below grade of the parking facility. The second and third levels below grade are similar to the first level below grade, the only variables relating to the drop-off of the elevator pits at level 3, the inclusion of a service hallway on levels 2 and 3, and slightly different ramp configurations.

12. Please include the route and distance that the vehicles must travel from entrance and exit points to the nearest major highways in the area.

The entrance to and exit from the Massachusetts Turnpike will be located 1,500 and 2,000 feet from the facility, respectively. The Berkeley/Arlington Street entrance to Storrow Drive is located approximately 1/4 mile from the facility. Attached as Exhibit III is a plan showing the location of the facility in relationship to the Massachusetts Turnpike and Storrow Drive.

13. Please describe the proposed landscaping and the extent to which the facility conforms with land use patterns in the surrounding area.

The developer of the proposed facility has worked with the Boston Redevelopment Authority and neighborhood groups to provide open pedestrian plazas on the site. Both the proposed building and pedestrian plazas have been thoughtfully designed to complement and enhance the historical buildings and public amenities at Copley Square.

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

By: Copley Real Estate Advisors, Inc., Asset Manager and Advisor, Hereunto Duly Authorized

By: Michael J. Hanley

GERALD D. HINES INTERESTS, INC.

By: Kenneth S. Myall

ADDENDUM
TO
CITY OF BOSTON AIR POLLUTION CONTROL COMMISSION
APPLICATION FOR PARKING FREEZE PERMITS

During construction of the permanent parking facility described in the Application, between 75 and 100 public parking spaces for short-term use will be provided on the site of or within three blocks of the location of the permanent facility. The proposed rate structure for the temporary parking spaces will be consistent with the rate structure established for the permanent facility. The Developer requests a temporary parking freeze permit to provide these parking spaces.

After completion of construction, the 75 to 100 public parking spaces located on the site or within three blocks of the permanent facility will no longer be used for parking purposes.

EXHIBIT I

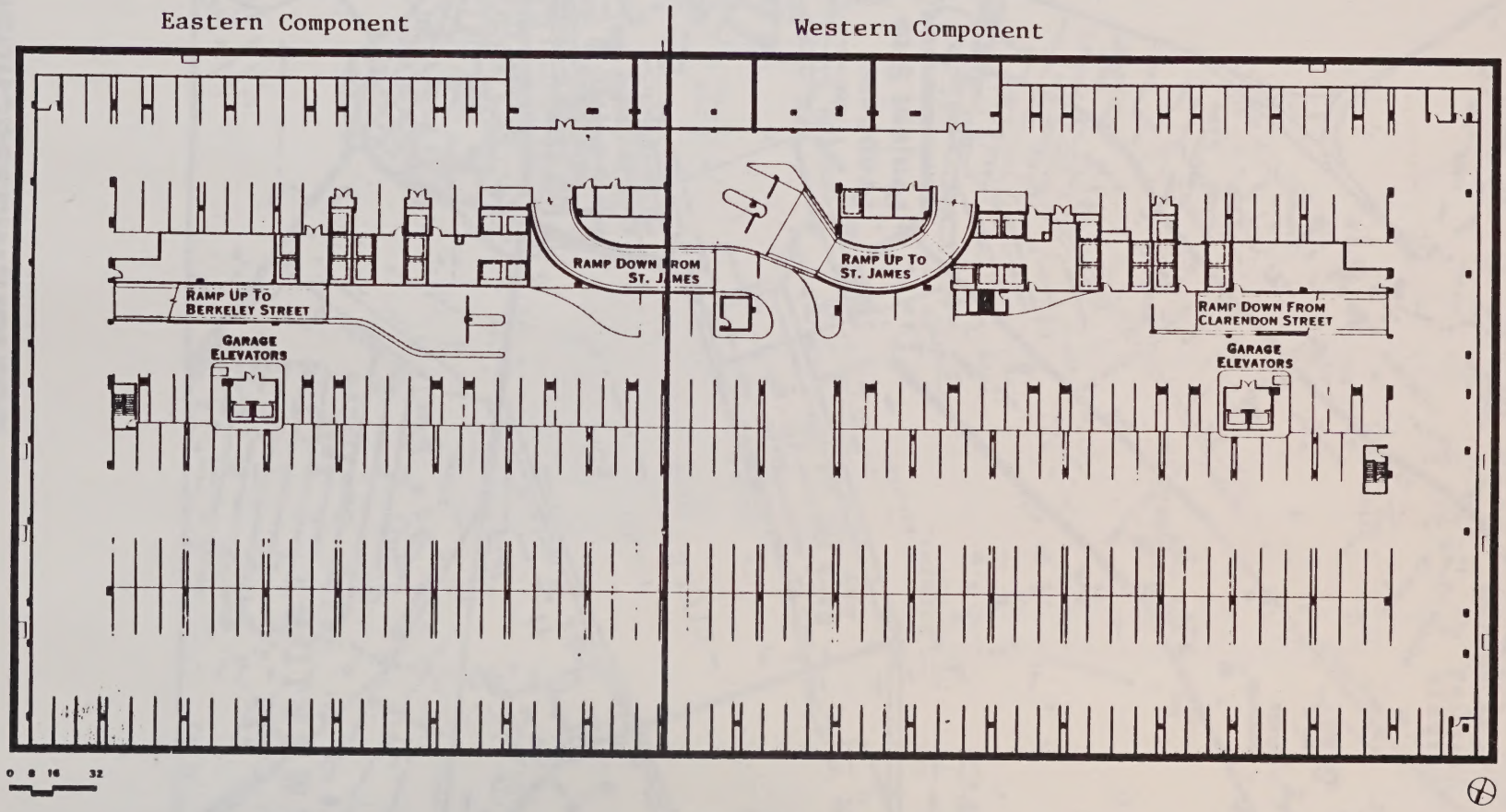
The Developer of the Facility is:

New England Mutual Life Insurance Company
and Gerald D. Hines Interests, Inc.
c/o Copley Real Estate Advisors, Inc.
535 Boylston Street
Boston, Massachusetts 02116

Owners of land to be included in the Facility are:

Address	Owner
452-462 Boylston Street	Henry H. Thayer and Brian S. Meyer, Trustees of the Old Sod Trust
468-472 Boylston Street	Henry H. Thayer and Brian S. Meyer, Trustees of The Erin Trust
474-476 Boylston Street	Henry H. Thayer and Brian S. Meyer, Trustees of The Mill Dam Trust
478-488 Boylston Street	Henry H. Thayer and Brian S. Meyer, Trustees of The Mill Dam Trust
492-502 Boylston Street	New England Mutual Life Insurance Company
506-532 Boylston Street and 205 Clarendon Street	New England Mutual Life Insurance Company
206 Berkeley Street St. James Avenue Parking Garage	New England Mutual Life Insurance Company

EXHIBIT II

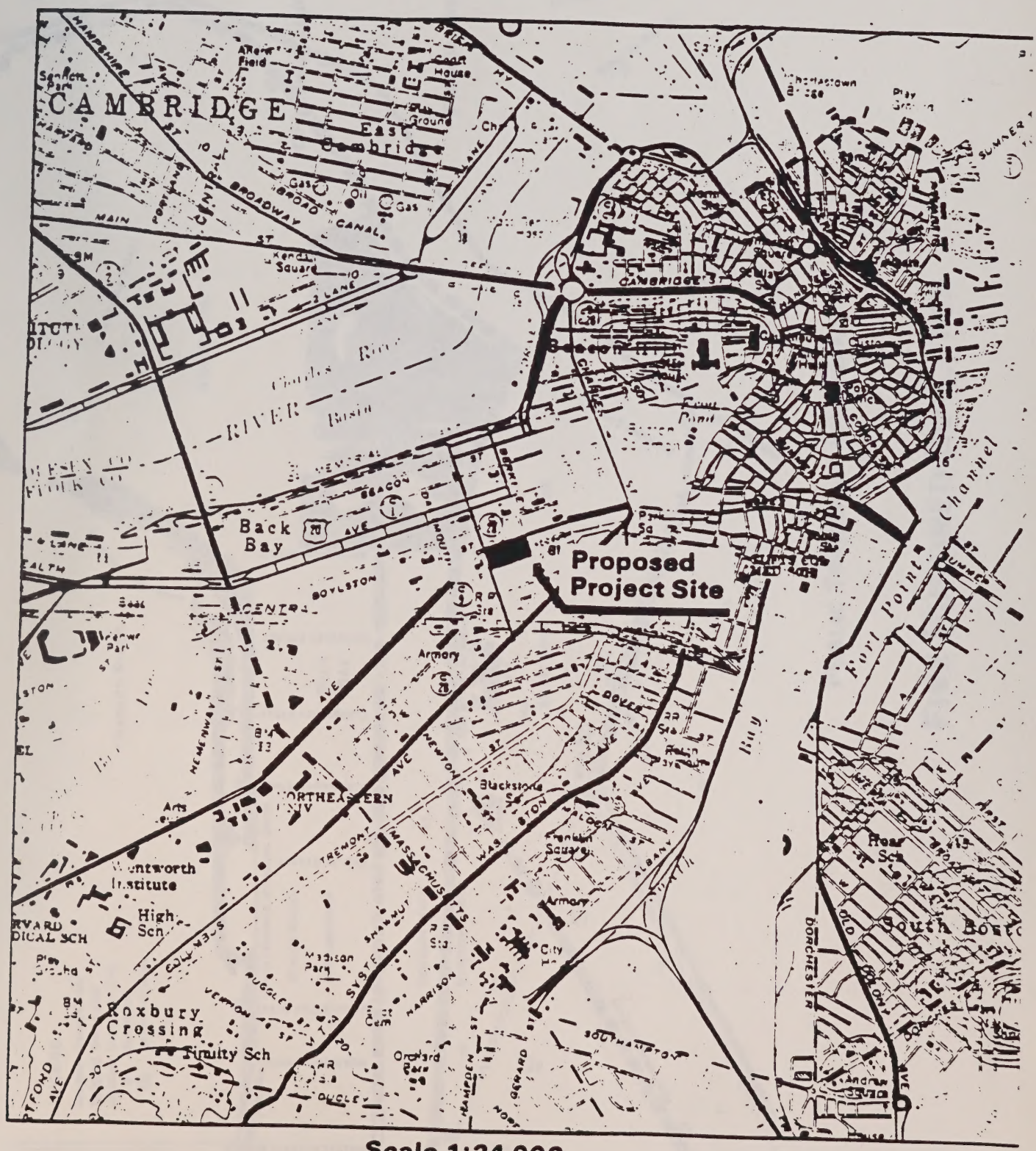


GARAGE FLOOR P-1

FIVE HUNDRED BOYLSTON

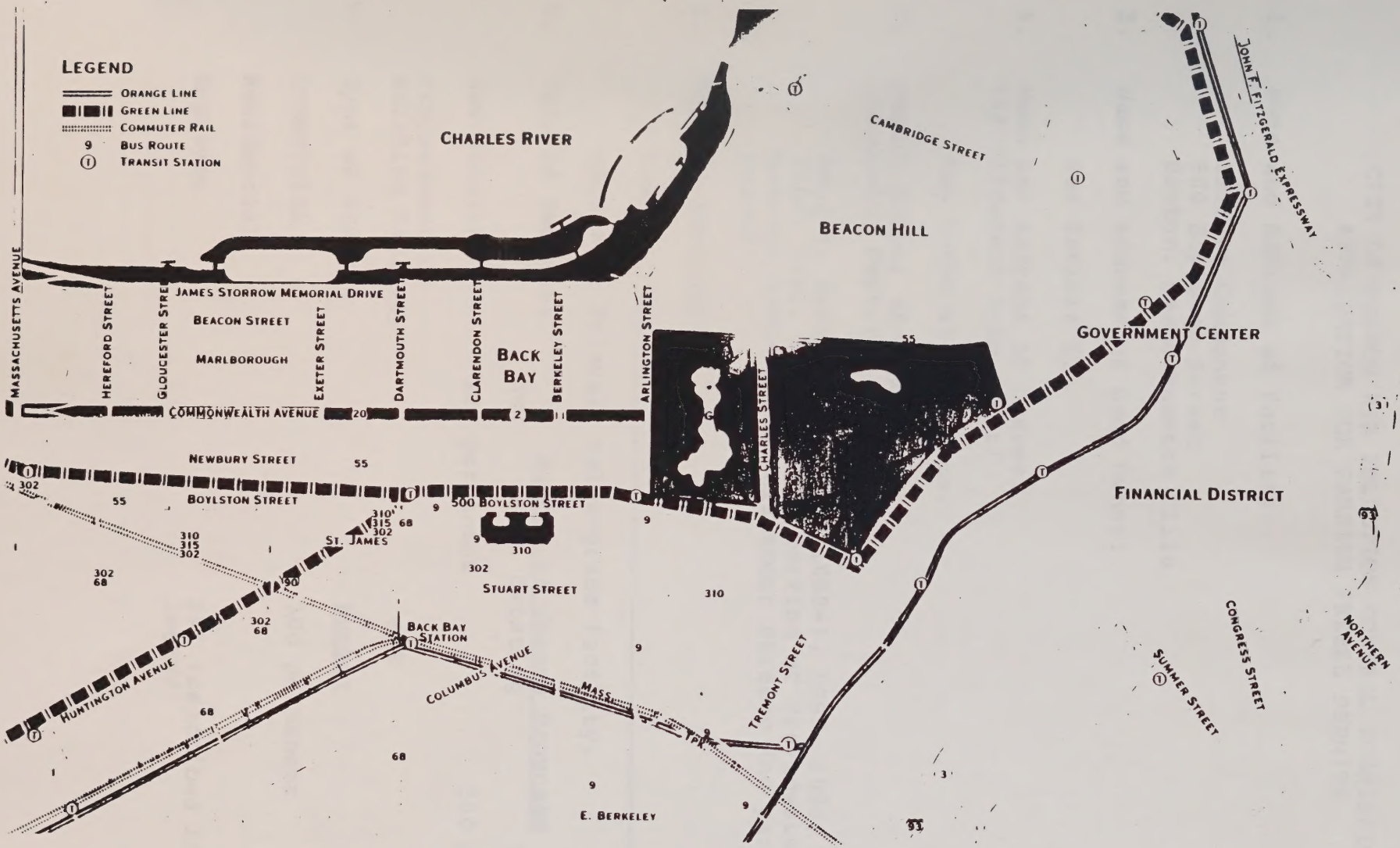
Locus Map

500 Boylston Street
Boston, Massachusetts



Scale 1:24,000

(Parcel is bounded by Clarendon, Boylston, and Berkeley Streets and St. James Avenue)



PUBLIC TRANSPORTATION MAP

FIVE HUNDRED BOYLSTON

CITY OF BOSTON AIR POLLUTION CONTROL COMMISSION
APPLICATION FOR PARKING FREEZE PERMITS

1. Name and Address of Facility:

   Eastern Component
   500 Boylston Street
   Boston, Massachusetts 02116

2. Name and Address of Land Owner:

   See Exhibit I.

3. Name and Address of Lessee:
   (if different from owner)

   Not known at this time.

4. Parcel Number of Land:
   (Assessing Dept.)

   Ward 4, Parcel Nos. 1092, 1092-1, 1093, 1096, 1099, 1100, 1102, 1103 and the portion of Providence Street between Berkeley and Clarendon Streets (no parcel number)

5. Type of Facility:

   Lot: _____

   Garage: 3-level, below-grade facility.

6. Type of Request:

	Number of Spaces Proposed		
	New	Existing	Total
New Facility	300 permanent		300 permanent
Replacement of Existing Facility		625	625

7. Type of Spaces:

	Number
Commercial	300 permanent
Residential	
Employee	297 (described in separate letter)

8. Estimated Commencement: Second Quarter of 1988

   Estimated Completion: Second Quarter of 1990

9. Please include below a general description of the need for the proposed facility and the type of development and patrons it will serve.

   The proposed parking facility will be located in three levels below grade of a proposed 1,300,000 square-foot office and retail/commercial project to be located in the Back Bay. The construction of the project will necessitate the demolition of the 625-car St. James Avenue Public Parking Facility. The 300 public parking spaces in the Eastern Component of the proposed project together with the 325 public parking spaces in the Western Component of the proposed project (described in a separate application) will replace the eliminated spaces. The spaces in the Eastern Component will be allocated between 15 public parking spaces for short-term use and 285 public parking spaces to be marketed for use on a monthly basis. Of the 285 public monthly spaces, 20 will be reserved for high-occupancy vehicles such as car pool vans. These parking spaces are greatly needed by the surrounding area.

10. Please indicate the proposed rate structure, per day and per hour, along with the days of the week these rates pertain to, and the type of parking (i.e., valet, self-parking).

    The 15 short-term parking spaces will be available to the public between approximately 9:00 a.m. and 10:00 p.m. seven days a week. During the business week the rates for these spaces will be commercially competitive for 3 to 4 hours and then increase significantly, thus discouraging parking for more than a few hours. On weekends the spaces will be available and attractive for longer-term parking. No later than 180 days prior to opening the Eastern Component of the facility, the applicant will submit to the Commission for its review and approval a proposed rate schedule.

    The 285 monthly spaces will be marketed to the public in accordance with a plan to be pre-approved by the Director of the Boston Redevelopment Authority. It is anticipated that the rates charged for these spaces will be equal to that charged to tenants of the office building, as such rates may be adjusted. The current design of the garage indicates that all short-term and car pool parking will be self-parking.

11. Please attach a site plan or floor plan of the proposed lot or garage, showing the location of the facility, the layout of spaces, entry and exist points, and the total square footage of the parking area.

See plan attached as Exhibit II showing the first level below grade of the parking facility. The second and third levels below grade are similar to the first level below grade, the only variables relating to the drop-off of the elevator pits at level 3, the inclusion of a service hallway on levels 2 and 3, and slightly different ramp configurations.

12. Please include the route and distance that the vehicles must travel from entrance and exit points to the nearest major highways in the area.

The entrance to and exit from the Massachusetts Turnpike will be located 1,500 and 2,000 feet from the facility, respectively. The Berkeley/Arlington Street entrance to Storrow Drive is located approximately 1/4 mile from the facility. Attached as Exhibit III is a plan showing the location of the facility in relationship to the Massachusetts Turnpike and Storrow Drive.

13. Please describe the proposed landscaping and the extent to which the facility conforms with land use patterns in the surrounding area.

The developer of the proposed facility has worked with the Boston Redevelopment Authority and neighborhood groups to provide open pedestrian plazas on the site. Both the proposed building and pedestrian plazas have been thoughtfully designed to complement and enhance the historical buildings and public amenities at Copley Square.

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

By: Copley Real Estate Advisors, Inc., Asset Manager and Advisor, Hereunto Duly Authorized

By: Michael J. Hanley

GERALD D. HINES INTERESTS, INC.

By: Kenneth D. Myerberg

EXHIBIT I

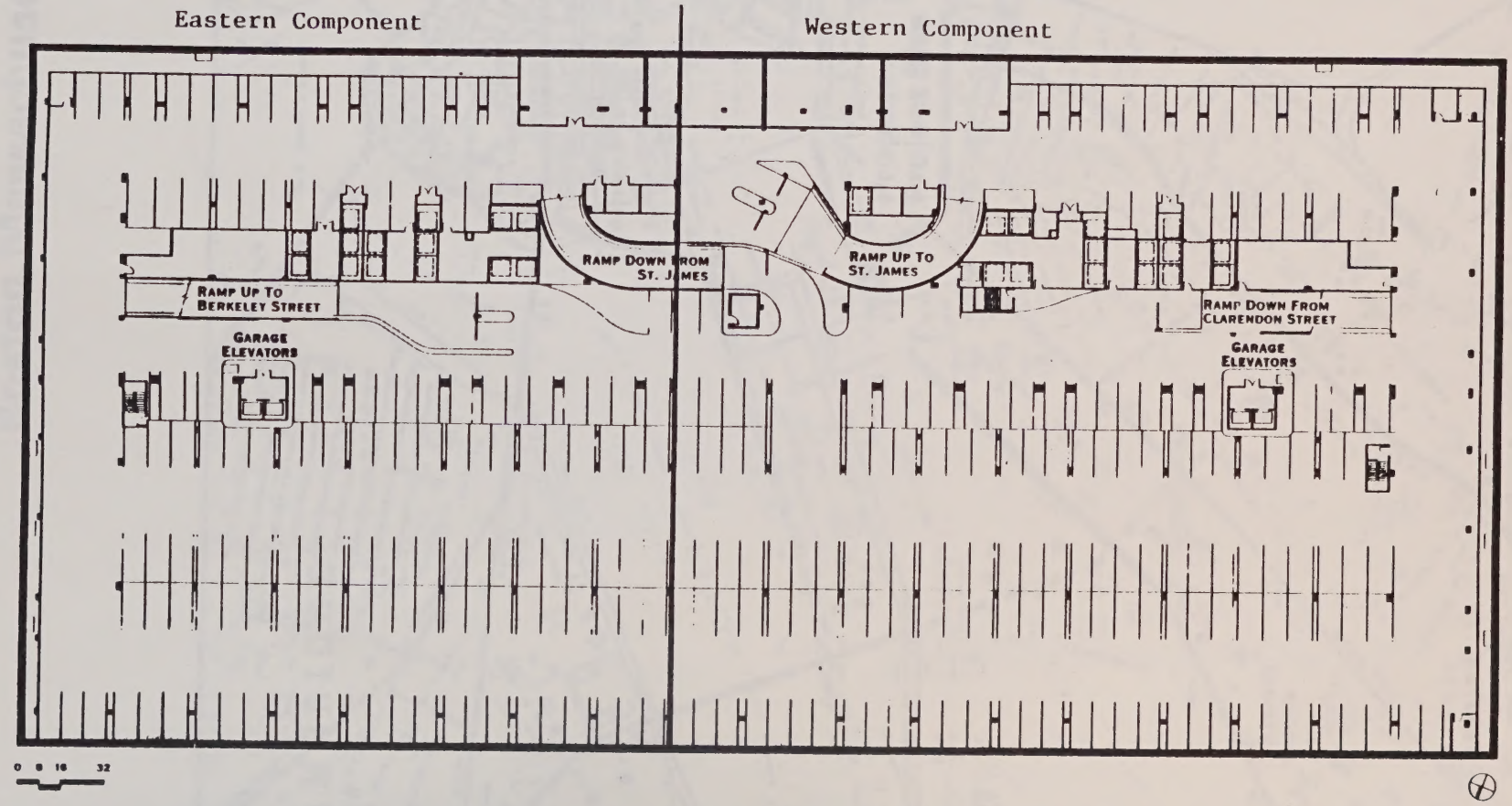
The Developer of the Facility is:

New England Mutual Life Insurance Company
and Gerald D. Hines Interests, Inc.
c/o Copley Real Estate Advisors, Inc.
535 Boylston Street
Boston, Massachusetts 02116

Owners of land to be included in the Facility are:

Address	Owner
452-462 Boylston Street	Henry H. Thayer and Brian S. Meyer, Trustees of the Old Sod Trust
468-472 Boylston Street	Henry H. Thayer and Brian S. Meyer, Trustees of The Erin Trust
474-476 Boylston Street	Henry H. Thayer and Brian S. Meyer, Trustees of The Mill Dam Trust
478-488 Boylston Street	Henry H. Thayer and Brian S. Meyer, Trustees of The Mill Dam Trust
492-502 Boylston Street	New England Mutual Life Insurance Company
506-532 Boylston Street and 205 Clarendon Street	New England Mutual Life Insurance Company
206 Berkeley Street St. James Avenue Parking Garage	New England Mutual Life Insurance Company

EXHIBIT II

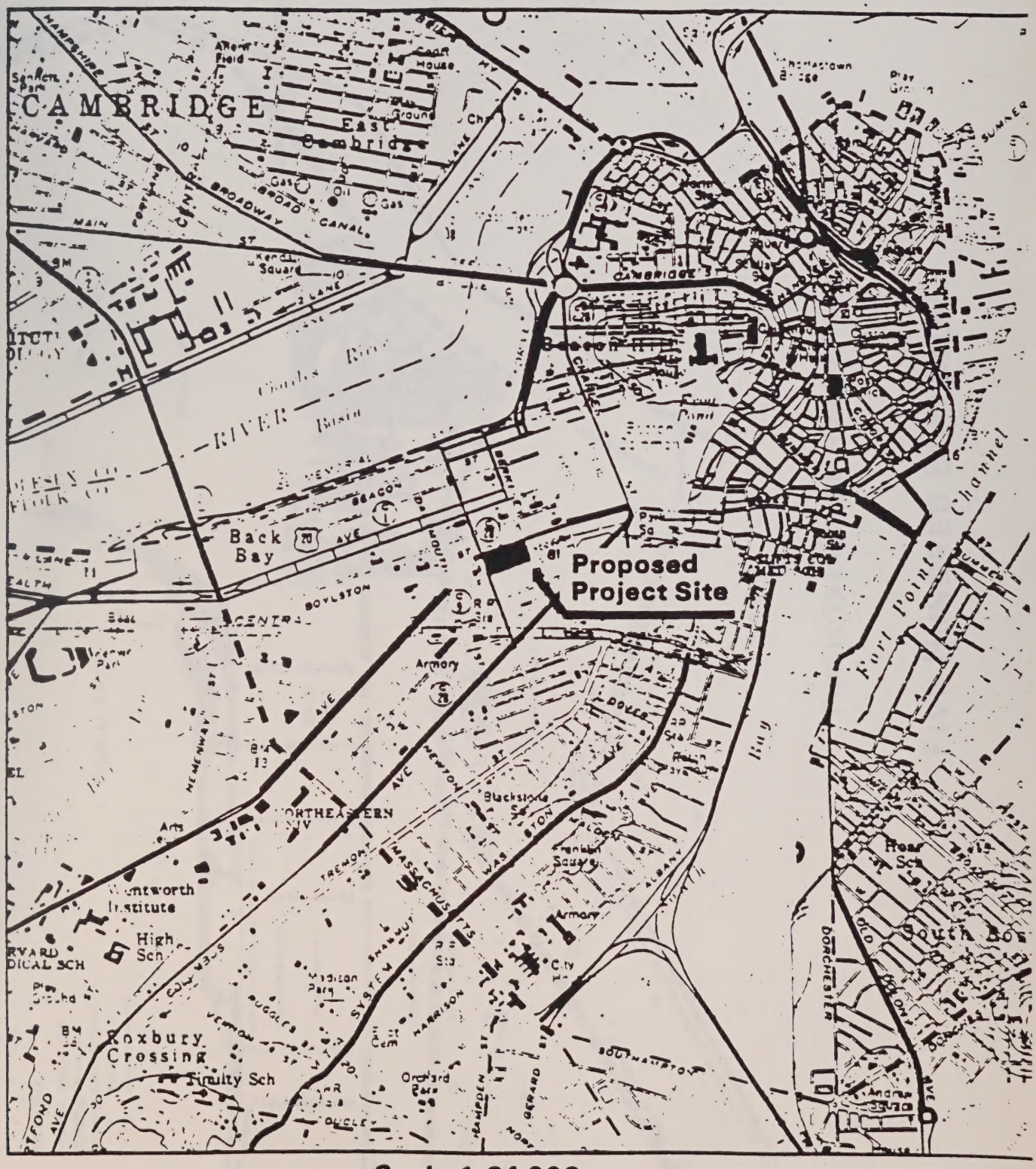


GARAGE FLOOR P-1

FIVE HUNDRED BOYLSTON

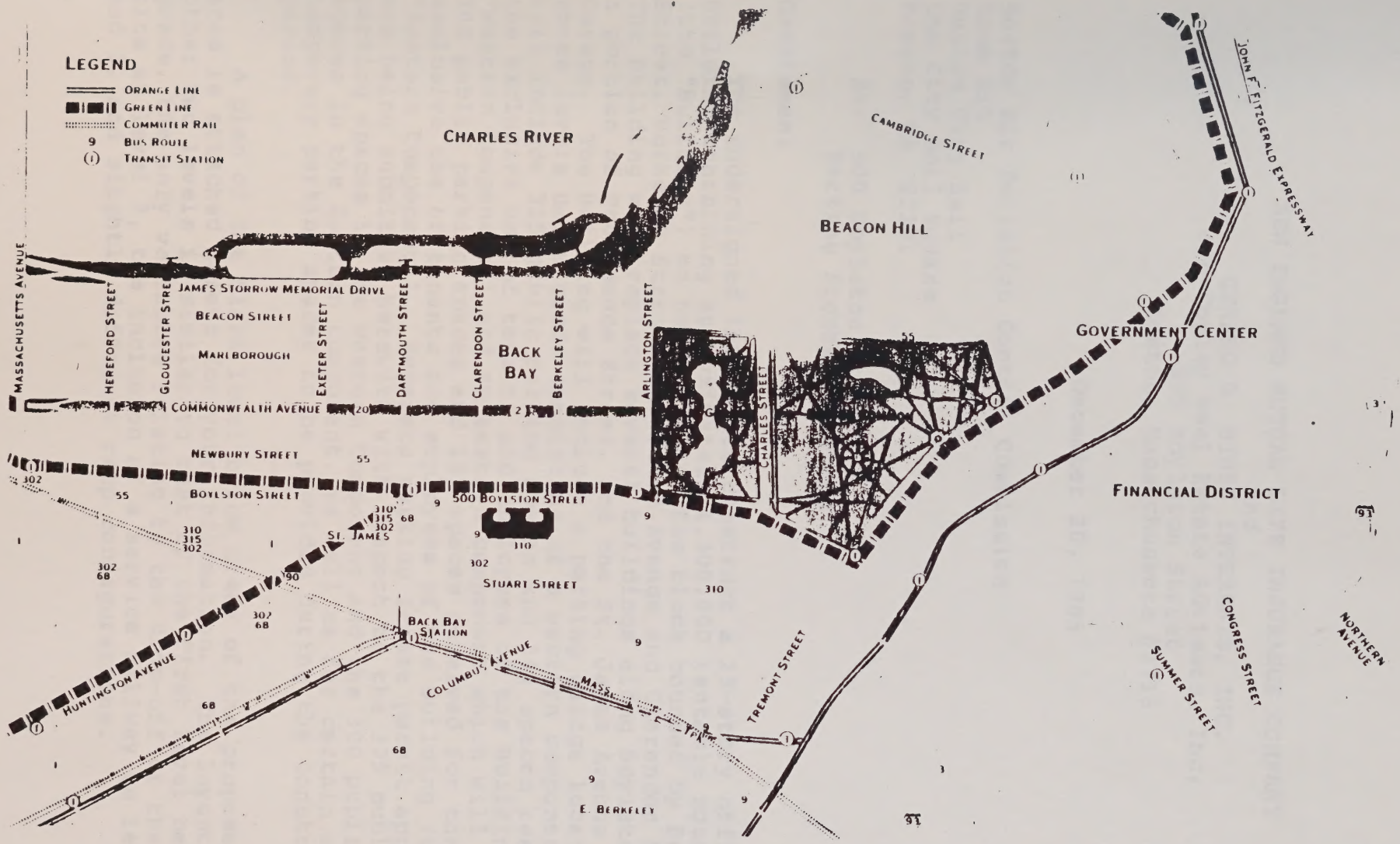
Locus Map

500 Boylston Street
Boston, Massachusetts



Scale 1:24,000

(Parcel is bounded by Clarendon, Boylston, and Berkeley Streets and St. James Avenue)



PUBLIC TRANSPORTATION MAP

FIVE HUNDRED BOYLSTON

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY
and
GERALD D. HINES INTERESTS, INC.
c/o Copley Real Estate Advisors, Inc.
535 Boylston Street
Boston, Massachusetts 02116

December 20, 1985

Boston Air Pollution Control Commission
Room 813
Boston City Hall
One City Hall Square
Boston, MA 02201

Re: 500 Boylston Street
Parking Freeze Exemption

Gentlemen:

The undersigned intends to construct a 25-story office building containing approximately 1,300,000 rentable square feet (the "Building") to be located on the block bounded by Boylston Street, Berkeley Street, St. James Avenue and Clarendon Street. The Building will replace several buildings along Boylston Street, a portion of Providence Street, and the St. James Avenue Parking Garage. The Building will include a parking garage located on three levels below grade consisting of a western component which will include 325 public parking spaces and 348 spaces reserved for the exclusive use of tenants and employees of the Building (the "Western Component") and an eastern component which will include 300 public parking spaces and 297 spaces reserved for the exclusive use of tenants and employees of the Building (the "Eastern Component"). Separate parking freeze permit applications are being submitted herewith with respect to the 325 public parking spaces in the Western Component and the 300 public parking spaces in the Eastern Component, as well as for certain additional temporary parking spaces to be provided during the construction period.

A plan of the first level below grade of the proposed parking area is attached hereto for your information. The layout of the other two levels is similar to that of the first level below grade, the only variables relating to the drop-off of the elevator pits at level 3, the inclusion of a service hallway on levels 2 and 3, and slightly different ramp configurations.

Although upon completion of the Western Component the parking garage will include 325 public parking spaces as well as 348 parking spaces for tenants of the Building, a mechanism will be used to prevent more than 325 cars which do not belong to Building tenants from entering the garage. This mechanism will restrict tenant parking in the Western Component to the 348 parking spaces for which the undersigned seeks an exemption. No later than 180 days before opening the parking garage, the undersigned will submit to the Commission for its review and approval the proposed mechanism by which the use of the 348 spaces of the Western Component reserved for tenants of the Building will be so restricted.

Upon completion of the Eastern Component the parking garage will include an additional 300 public parking spaces and an additional 297 parking spaces for tenants of the Building. No later than 180 days prior to the opening of the Eastern Component of the parking garage a plan for a revised mechanism to regulate both the Eastern and Western Components will be submitted to the Commission for review and approval by which the total number of spaces reserved for tenants of the Building will be restricted to 645 and the total number of nontenant cars allowed in the garage at any one time will be restricted to 625.

Based on the foregoing, the undersigned respectfully requests an exemption from the requirements of the Commission for obtaining a parking freeze permit with respect to the 348 tenant and employee parking spaces to be located in the Western Component and the 297 tenant and employee spaces to be located in the Eastern Component.

Note that although the undersigned anticipates the provision of a combined total of 1270 tenant and public parking spaces if and when both the Western Component and Eastern Component parking facilities are completed, the Planned Development Area Plan ("PDA") for the Building currently permits a total of only 1000 parking spaces. In the event the PDA is not successfully amended to allow for an additional 270 spaces, the allocation of spaces will be revised as follows. Parking for approximately 600 vehicles will be provided in the Western Component, with the total number of public parking spaces to remain unchanged and the total number of spaces designated for tenants to be reduced by 73 spaces to a total of 275 spaces. Parking for approximately 400 vehicles will be provided in the Eastern Component, with the total number of public parking spaces to remain unchanged and the total number of spaces designated for tenants of the Building to be reduced by 197 spaces to a total of 100 spaces. Thus, assuming the PDA is not amended, the total number of public spaces in the Eastern and

Western Components would remain 625 and the total number of exempt tenant spaces would be reduced to 375.

Very truly yours,

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

By: Copley Real Estate Advisors, Inc., Asset Manager and Advisor, Hereunto Duly Authorized

By: Michael D. Fanitz

GERALD D. HINES INTERESTS, INC.

By: Kenneth S. Hynes

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY
c/o Copley Real Estate Advisors, Inc.
535 Boylston Street
Boston, Massachusetts 02116

and

GERALD D. HINES INTERESTS, INC.
462 Boylston Street, Suite 302
Boston, Massachusetts 02116

December 19, 1985

Boston Redevelopment Authority
Boston City Hall
One City Hall Square
Boston, Massachusetts 02201

Re: Parking Management Plan for proposed development to be located on premises bounded by Berkeley, Boylston and Clarendon Streets and St. James Avenue, Boston ("Project")

Gentlemen:

This letter sets forth the marketing plan for parking spaces in the Project to be instituted by the undersigned.

Parking for approximately 673 vehicles will be provided in the western component of the Project (the "Western Component"). Of the 673 spaces to be located in the Western Component, 300 will be designated for short-term public use, 25 will be designated for public use on a monthly basis ("Public Monthly Spaces"), and 348 will be designated for tenants of the Project. Of the 25 Public Monthly Spaces, 20 will be reserved for high-occupancy vehicles such as car pool vans ("Car Pool Spaces"). The Car Pool Spaces will be placed in convenient locations in the parking facility and will be made available at monthly rates not to exceed the lowest monthly parking rate then available at the Western Component.

If the eastern component of the Project (the "Eastern Component") is constructed in accordance with the design contemplated by the Sale and Construction Agreement between the City of Boston, the Boston Redevelopment Authority (the "BRA"), New England Mutual Life Insurance Company and Gerald D. Hines

Interests, Inc. (together, the "Developer") dated as of June 30, 1984 (the "Sale and Construction Agreement"), the Eastern Component will provide parking for approximately 597 vehicles. Of those 597 spaces, 15 will be designated for short-term public use, 285 will be designated as Public Monthly Spaces, and 297 will be designated for tenants of the Project. Of the 285 Public Monthly Spaces, 20 will be designated Car Pool Spaces.

If construction of the Eastern Component is not commenced in accordance with the Sale and Construction Agreement, until such commencement of construction, the Developer agrees to provide an outdoor surface level parking facility including approximately 125 public parking spaces on the Eastern Component site. The ratio of Public Monthly and Car Pool Spaces to short-term spaces, will be mutually agreed upon by the BRA and the Developer.

Although this letter agreement anticipates the provision of a total of 1270 parking spaces if and when both the Western Component and Eastern Component parking facilities are completed, the Planned Development Area Plan (the "PDA") for the Project currently permits a total of only 1000 parking spaces. In the event the PDA is not successfully amended to allow for an additional 270 spaces, the allocation of spaces will be revised as follows. Parking for approximately 600 vehicles will be provided in the Western Component, with the total number of spaces designated for public uses to remain unchanged and the total number of spaces designated for tenants of the Project to be reduced by 73 spaces to a total of 275 spaces. Parking for approximately 400 vehicles will be provided in the Eastern Component, with the total number of spaces designated for public uses to remain unchanged and the total number of spaces designated for tenants of the Project to be reduced by 197 spaces to a total of 100 spaces.

In both the Western Component and the Eastern Component, parking will be provided on three levels located below grade. During construction of the Western Component, no fewer than 75 public spaces for short-term hourly or daily use will be provided on the site of or within three blocks of the Project.

In order to market the Public Monthly Spaces to the public, the undersigned intend to undertake reasonable public advertising of the availability of such spaces and, prior to the opening of the parking facility in the Western Component and the Eastern Component, to place an appropriate exterior sign on the applicable component site indicating the availability of such spaces. After the opening of the parking facility in the Western Component, a sign shall be maintained within the parking facility indicating the availability of monthly parking spaces in the Project. Public Monthly Spaces will be allocated based upon a "lottery style"

allocation system no less than 3 months after the opening of the parking facility in the Western Component and the Eastern Component. Rates for the Public Monthly Spaces will be equal to that charged to tenants of the Project for the parking spaces designated for their use as such rates may be adjusted.

In the event all public monthly parking spaces are rented, the undersigned intends to keep a waiting list of parties desiring Public Monthly Spaces. As the Spaces become available, they will be offered to parties on the waiting list.

Approximately one year after the completion of the Eastern Component, the Developer and the BRA agree to discuss utilization of the parking facilities.

Every three years the utilization of all public parking spaces will be reviewed. If spaces designated for short-term hours or daily use have not been utilized during periods of the year of the most intensive parking use or Public Monthly Spaces have not been utilized on a reasonably regular basis during the preceding three-year period, an appropriate number of such spaces will be converted to tenant use with your approval, which approval is not to be unreasonably withheld or delayed.

When the Western Component parking facility is completed and in operation, a short-term parking program will be initiated, which will require that at least 100 of the public short-term spaces remain unoccupied during normal business days until 9:30 a.m. The completion of the Eastern Component parking facility shall in no event require an increase in the number of spaces that must remain unoccupied. It is agreed and understood that the purpose of this provision is not to keep spaces unnecessarily vacant, but rather to improve service to users of the Project parking facility.

The Project parking facility will also provide additional conveniences for owners of vehicles of the neighborhoods surrounding the Project site displaying "residential parking stickers." In particular, such vehicles shall be allowed access to the Project parking facility during major snow emergencies to the extent spaces are available and, pursuant to a plan to be developed with input from the BRA and residential community representatives, shall be allowed to park on nights and weekends in the Project parking facility, during the facility's standard hours of operation, at special rates.

Upon completion of both the Western Component and the Eastern Component, the facility shall be treated as a single parking facility for purposes of allocation of spaces between public and tenant uses. The total number of spaces allocated to each use, however, shall continue in accordance with this letter agreement.

Kindly acknowledge your approval of the foregoing by signing and returning the enclosed copy of this letter.

Very truly yours,

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

By: Copley Real Estate Advisors, Inc.
Asset Manager and Advisor,
hereunto duly authorized

By: _____

GERALD D. HINES INTERESTS, INC.

By: _____

Consented to this 19th day
of December, 1985

BOSTON REDEVELOPMENT AUTHORITY

By: _____
Stephen F. Coyle, Director

MEMORANDUM OF UNDERSTANDING

BETWEEN BOSTON REDEVELOPMENT AUTHORITY

and

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY/
GERALD D. HINES INTERESTS, INC., REDEVELOPERS
OF 500 BOYLSTON STREET IN THE BACK BAY

This Memorandum of Understanding entered into this 19th day of December, 1985, by and between the Boston Redevelopment Authority, a public body politic and corporate, duly organized and existing pursuant to Chapter 121B of the Massachusetts General Laws, having as its usual place of business in Boston, Massachusetts, hereinafter referred to as the "Authority", and New England Mutual Life Insurance Company, hereinafter referred to as "NEL", and Gerald D. Hines Interests, Inc., herein referred to as "GDHI".

WITNESSETH THAT:

WHEREAS, the Authority has authorized the Director of the Authority (the "Director") to execute a "Cooperation Agreement" with NEL/GDHI concerning the carrying out of the redevelopment of. 500 Boylston Street in the Back Bay, consisting of a western component (the "Western Component") and an eastern component (the "Eastern Component") (together the "Project");

WHEREAS, the Authority Board has voted to authorize the Director to enter into a "Sale and Construction" Agreement with NEL/GDHI; and

WHEREAS, the Authority and NEL/GDHI desire to establish a plan to enhance traffic flow and parking availability in connection with construction and operation of the Project.

WHEREAS, the Authority on its own behalf and on behalf of the City of Boston intends to require all developers carrying out construction projects in the downtown and Back Bay areas of Boston to establish similar plans to uniformly minimize construction related impact on traffic flow in the City of Boston.

NOW, THEREFORE, the parties do hereto mutually agree as follows:

1. Construction Impacts

NEL/GDHI agrees to establish a "Construction Mitigation Plan" (the "Plan") which will commence on the date of issuance of a demolition permit for the Western Component of the Project and which will extend for sixty (60) months or until the occupancy of the Eastern Component of the Project, whichever is first to occur; provided, however, that the Plan shall not

apply to non-construction related activity associated with the Western Component following completion thereof. Such Plan is subject to the approval of the Director, and shall provide as follows:

- Reasonable efforts will be made to minimize construction related truck movement between 7:30 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m., except during the demolition, excavation and concrete placement phases of construction. At no time will trucks be permitted to be staged in such a manner as to impede the flow of traffic in the Project site area. NEL/GDHI will submit to the Authority prior to the commencement of construction a construction traffic and staging plan incorporating these provisions and requiring notice to the contractor, subcontractors and suppliers concerning the delivery and traffic flow requirements contained herein.

- All construction deliveries, except those associated with excavation and concrete placement, will be to Clarendon Street, Berkeley Street or St. James Avenue to ensure that normal shopping activity along Boylston Street will not be affected in any material manner.

- Structural steel deliveries arriving by rail to the Allston yards will be transferred to trucks that will exclusively use the Massachusetts Turnpike for arrivals and departures.

- NEL/GDHI in cooperation with the Authority will attempt to locate satellite parking locations for use by construction workers during the construction of the Western Component from which a free shuttle bus service to transport workers to the Project site will be provided.

2. Traffic Parking Impacts

NEL/GDHI further agrees to establish a "Traffic and Parking Management Plan" (the "Traffic Plan") which will commence six months prior to occupancy of the Western Component and extend for fifteen (15) years following occupancy of the Western Component. The Traffic Plan shall provide the following measures to reduce demand for parking at the Project and in the adjacent areas:

- NEL/GDHI will operate a computer-based ride-sharing information bank for the Back Bay business community. With the cooperation of adjacent businesses and building owners, NEL/GDHI will collect and disseminate information, in cooperation with Masspool, from and to commuters seeking to establish carpool arrangements. In connection therewith, NEL/GDHI will place promotional material for such programs, including information concerning availability of car pool parking spaces, in

company publications regarding mass transit and carpooling.

- NEL/GDHI will participate in the MBTA Commuter pass program through its property management office which will make available for sale MBTA commuter passes for subway and surface bus services to its employees and to tenants of the Project.

- NEL/GDHI agrees to encourage tenants of the Project to establish plans for staggered work hours or a "flex-time" system to reduce peak hour traffic impacts. NEL/GDHI's property management office will assist tenants interested in establishing such plans.

- NEL/GDHI agrees to maintain and provide the necessary staff through its property management office, to deal with transit, traffic and parking matters relating to the Traffic Plan and for monitoring access to the Project's parking facility.

- The property management office will also distribute information and promote the management program for all of the tenants in the Project.

3. Performance Monitoring

- During construction, the Director or his designee may request periodic meetings with NEL/GDHI representatives to review compliance procedures. If the Director reasonably determines that NEL/GDHI is not in compliance with the Authority approved "Construction Monitoring Plan" with respect to a Component, the Authority shall require NEL/GDHI to take such actions as are reasonably necessary to achieve full compliance with respect to such Component within thirty (30) days of such directive.

- It is recognized that the Authority may keep a record of compliance with respect to each Component on file. This information may be considered in deciding whether to award future development parcels (unrelated to the Project) to NEL/GDHI.

- NEL/GDHI shall send a progress report annually to the Authority including information regarding traffic, transit and parking characteristics of employees and visitors to each Component.

4. Traffic Operation and Control

- NEL/GDHI agrees to participate in traffic studies and implementation of short-term improvements and selected measures to help traffic management in the Back Bay including improved signage and to expend up to $75,000 towards this effort.

- The Authority on its own behalf and on behalf of the City of Boston agrees to take necessary steps to further improve management of traffic control and parking in the Project site area and the Back Bay generally.

5. Joint Venture Liability

- The Authority agrees that NEL/GDHI and its successors in interest shall be liable for breaches of obligations under this Agreement with respect to a particular Component only while NEL/GDHI or any successor in interest, as the case may be, is owner of the Component in question. The Authority further agrees to look solely to the interest in the Component in question of NEL/GDHI or its successors, as the case may be, for any claim against NEL/GDHI or any successor arising out of this Agreement in connection with such Component. Neither NEL/GDHI nor any trustee, beneficiary, partner, manager, agent or employee of NEL/GDHI (or its successors and assigns) shall ever be personally or individually liable; nor shall it or they ever be answerable or liable in any equitable proceeding or order beyond the extent of its or their interest in the Component in question.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding as of the day and year first above written.

BOSTON REDEVELOPMENT AUTHORITY

Stephen Coyle, Director

Approved as to Legal Form:

General Counsel
for Boston Redevelopment Authority

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY
By: Copley Real Estate Advisors, Inc., Asset Manager and Advisor, hereunto duly authorized

By:
Name:
Title:

GERALD D. HINES, INTERESTS, INC.

By:
Name:
Title:

BOSTON REDEVELOPMENT AUTHORITY
Boston City Hall
One City Hall Square
Boston, MA 02201

December 19, 1985

New England Mutual
Life Insurance Company
501 Boylston Street
Boston, MA 02117

Gerald D. Hines Interests, Inc.
462 Boylston Street
Boston, MA 02116

Re: 500 Boylston Street, Boston
Approval of Wind Studies

Reference is made to submissions made by Kenneth S. Moczulski to the Boston Redevelopment Authority (the "Authority") on December 4, 1985 in response to a letter from Stephen Coyle, Director of the Authority, to Kenneth S. Moczulski dated June 21, 1985 regarding additional wind studies to be conducted in connection with the Western and Eastern Components of the 500 Boylston Street project.

This is to acknowledge that the wind studies submitted on December 4, 1985 are hereby approved by the Authority. Approval of such wind studies completes approval of all of the studies of environmental impacts of the Western and Eastern Components to be carried out for the Authority except as set forth in the letter-agreement among the Authority, the joint venture of New England Mutual Life Insurance Company and Gerald D. Hines Interests, Inc., and the City of Boston of even date herewith.

Sincerely yours,

Stephen Coyle, Director

Doc # 4707

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY
c/o Copley Real Estate Advisors, Inc.
535 Boylston Street
Boston, Massachusetts 02116

and

GERALD D. HINES INTERESTS, INC.
462 Boylston Street, Suite 302
Boston, Massachusetts 02116

December 19, 1985

Boston Redevelopment Authority
Boston City Hall
One City Hall Square
Boston, Massachusetts 02201

Re: Parking Management Plan for proposed development to be located on premises bounded by Berkeley, Boylston and Clarendon Streets and St. James Avenue, Boston ("Project")

Gentlemen:

This letter sets forth the marketing plan for parking spaces in the Project to be instituted by the undersigned.

Parking for approximately 673 vehicles will be provided in the western component of the Project (the "Western Component"). Of the 673 spaces to be located in the Western Component, 300 will be designated for short-term public use, 25 will be designated for public use on a monthly basis ("Public Monthly Spaces"), and 348 will be designated for tenants of the Project. Of the 25 Public Monthly Spaces, 20 will be reserved for high-occupancy vehicles such as car pool vans ("Car Pool Spaces"). The Car Pool Spaces will be placed in convenient locations in the parking facility and will be made available at monthly rates not to exceed the lowest monthly parking rate then available at the Western Component.

If the eastern component of the Project (the "Eastern Component") is constructed in accordance with the design contemplated by the Sale and Construction Agreement between the City of Boston, the Boston Redevelopment Authority (the "BRA"), New England Mutual Life Insurance Company and Gerald D. Hines

Interests, Inc. (together, the "Developer") dated as of June 30, 1984 (the "Sale and Construction Agreement"), the Eastern Component will provide parking for approximately 597 vehicles. Of those 597 spaces, 15 will be designated for short-term public use, 285 will be designated as Public Monthly Spaces, and 297 will be designated for tenants of the Project. Of the 285 Public Monthly Spaces, 20 will be designated Car Pool Spaces.

If construction of the Eastern Component is not commenced in accordance with the Sale and Construction Agreement, until such commencement of construction, the Developer agrees to provide an outdoor surface level parking facility including approximately 125 public parking spaces on the Eastern Component site. The ratio of Public Monthly and Car Pool Spaces to short-term spaces, will be mutually agreed upon by the BRA and the Developer.

Although this letter agreement anticipates the provision of a total of 1270 parking spaces if and when both the Western Component and Eastern Component parking facilities are completed, the Planned Development Area Plan (the "PDA") for the Project currently permits a total of only 1000 parking spaces. In the event the PDA is not successfully amended to allow for an additional 270 spaces, the allocation of spaces will be revised as follows. Parking for approximately 600 vehicles will be provided in the Western Component, with the total number of spaces designated for public uses to remain unchanged and the total number of spaces designated for tenants of the Project to be reduced by 73 spaces to a total of 275 spaces. Parking for approximately 400 vehicles will be provided in the Eastern Component, with the total number of spaces designated for public uses to remain unchanged and the total number of spaces designated for tenants of the Project to be reduced by 197 spaces to a total of 100 spaces.

In both the Western Component and the Eastern Component, parking will be provided on three levels located below grade. During construction of the Western Component, no fewer than 75 public spaces for short-term hourly or daily use will be provided on the site of or within three blocks of the Project.

In order to market the Public Monthly Spaces to the public, the undersigned intend to undertake reasonable public advertising of the availability of such spaces and, prior to the opening of the parking facility in the Western Component and the Eastern Component, to place an appropriate exterior sign on the applicable component site indicating the availability of such spaces. After the opening of the parking facility in the Western Component, a sign shall be maintained within the parking facility indicating the availability of monthly parking spaces in the Project. Public Monthly Spaces will be allocated based upon a "lottery style"

allocation system no less than 3 months after the opening of the parking facility in the Western Component and the Eastern Component. Rates for the Public Monthly Spaces will be equal to that charged to tenants of the Project for the parking spaces designated for their use as such rates may be adjusted.

In the event all public monthly parking spaces are rented, the undersigned intends to keep a waiting list of parties desiring Public Monthly Spaces. As the Spaces become available, they will be offered to parties on the waiting list.

Approximately one year after the completion of the Eastern Component, the Developer and the BRA agree to discuss utilization of the parking facilities.

Every three years the utilization of all public parking spaces will be reviewed. If spaces designated for short-term hours or daily use have not been utilized during periods of the year of the most intensive parking use or Public Monthly Spaces have not been utilized on a reasonably regular basis during the preceding three-year period, an appropriate number of such spaces will be converted to tenant use with your approval, which approval is not to be unreasonably withheld or delayed.

When the Western Component parking facility is completed and in operation, a short-term parking program will be initiated, which will require that at least 100 of the public short-term spaces remain unoccupied during normal business days until 9:30 a.m. The completion of the Eastern Component parking facility shall in no event require an increase in the number of spaces that must remain unoccupied. It is agreed and understood that the purpose of this provision is not to keep spaces unnecessarily vacant, but rather to improve service to users of the Project parking facility.

The Project parking facility will also provide additional conveniences for owners of vehicles of the neighborhoods surrounding the Project site displaying "residential parking stickers." In particular, such vehicles shall be allowed access to the Project parking facility during major snow emergencies to the extent spaces are available and, pursuant to a plan to be developed with input from the BRA and residential community representatives, shall be allowed to park on nights and weekends in the Project parking facility, during the facility's standard hours of operation, at special rates.

Upon completion of both the Western Component and the Eastern Component, the facility shall be treated as a single parking facility for purposes of allocation of spaces between public and tenant uses. The total number of spaces allocated to each use, however, shall continue in accordance with this letter agreement.

Kindly acknowledge your approval of the foregoing by signing and returning the enclosed copy of this letter.

Very truly yours,

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

By: Copley Real Estate Advisors, Inc.
Asset Manager and Advisor,
hereunto duly authorized

By: _____

GERALD D. HINES INTERESTS, INC.

By: _____

Consented to this 19th day
of December, 1985

BOSTON REDEVELOPMENT AUTHORITY

By: _____
Stephen F. Coyle, Director

#4707

MEMORANDUM OF UNDERSTANDING

BETWEEN BOSTON REDEVELOPMENT AUTHORITY

and

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY/
GERALD D. HINES INTERESTS, INC., REDEVELOPERS
OF 500 BOYLSTON STREET IN THE BACK BAY

This Memorandum of Understanding entered into this 19th day of December, 1985, by and between the Boston Redevelopment Authority, a public body politic and corporate, duly organized and existing pursuant to Chapter 121B of the Massachusetts General Laws, having as its usual place of business in Boston, Massachusetts, hereinafter referred to as the "Authority", and New England Mutual Life Insurance Company, hereinafter referred to as "NEL", and Gerald D. Hines Interests, Inc., herein referred to as "GDHI".

WITNESSETH THAT:

WHEREAS, the Authority has authorized the Director of the Authority (the "Director") to execute a "Cooperation Agreement" with NEL/GDHI concerning the carrying out of the redevelopment of 500 Boylston Street in the Back Bay, consisting of a western component (the "Western Component") and an eastern component (the "Eastern Component") (together the "Project");

WHEREAS, the Authority Board has voted to authorize the Director to enter into a "Sale and Construction" Agreement with NEL/GDHI; and

WHEREAS, the Authority and NEL/GDHI desire to establish a plan to enhance traffic flow and parking availability in connection with construction and operation of the Project.

WHEREAS, the Authority on its own behalf and on behalf of the City of Boston intends to require all developers carrying out construction projects in the downtown and Back Bay areas of Boston to establish similar plans to uniformly minimize construction related impact on traffic flow in the City of Boston.

NOW, THEREFORE, the parties do hereto mutually agree as follows:

1. Construction Impacts

NEL/GDHI agrees to establish a "Construction Mitigation Plan" (the "Plan") which will commence on the date of issuance of a demolition permit for the Western Component of the Project and which will extend for sixty (60) months or until the occupancy of the Eastern Component of the Project, whichever is first to occur; provided, however, that the Plan shall not

apply to non-construction related activity associated with the Western Component following completion thereof. Such Plan is subject to the approval of the Director, and shall provide as follows:

- Reasonable efforts will be made to minimize construction related truck movement between 7:30 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m., except during the demolition, excavation and concrete placement phases of construction. At no time will trucks be permitted to be staged in such a manner as to impede the flow of traffic in the Project site area. NEL/GDHI will submit to the Authority prior to the commencement of construction a construction traffic and staging plan incorporating these provisions and requiring notice to the contractor, subcontractors and suppliers concerning the delivery and traffic flow requirements contained herein.

- All construction deliveries, except those associated with excavation and concrete placement, will be to Clarendon Street, Berkeley Street or St. James Avenue to ensure that normal shopping activity along Boylston Street will not be affected in any material manner.

- Structural steel deliveries arriving by rail to the Allston yards will be transferred to trucks that will exclusively use the Massachusetts Turnpike for arrivals and departures.

- NEL/GDHI in cooperation with the Authority will attempt to locate satellite parking locations for use by construction workers during the construction of the Western Component from which a free shuttle bus service to transport workers to the Project site will be provided.

2. Traffic Parking Impacts

NEL/GDHI further agrees to establish a "Traffic and Parking Management Plan" (the "Traffic Plan") which will commence six months prior to occupancy of the Western Component and extend for fifteen (15) years following occupancy of the Western Component. The Traffic Plan shall provide the following measures to reduce demand for parking at the Project and in the adjacent areas:

- NEL/GDHI will operate a computer-based ride-sharing information bank for the Back Bay business community. With the cooperation of adjacent businesses and building owners, NEL/GDHI will collect and disseminate information, in cooperation with Masspool, from and to commuters seeking to establish carpool arrangements. In connection therewith, NEL/GDHI will place promotional material for such programs, including information concerning availability of car pool parking spaces, in

company publications regarding mass transit and carpooling.

- NEL/GDHI will participate in the MBTA Commuter pass program through its property management office which will make available for sale MBTA commuter passes for subway and surface bus services to its employees and to tenants of the Project.

- NEL/GDHI agrees to encourage tenants of the Project to establish plans for staggered work hours or a "flex-time" system to reduce peak hour traffic impacts. NEL/GDHI's property management office will assist tenants interested in establishing such plans.

- NEL/GDHI agrees to maintain and provide the necessary staff through its property management office, to deal with transit, traffic and parking matters relating to the Traffic Plan and for monitoring access to the Project's parking facility.

- The property management office will also distribute information and promote the management program for all of the tenants in the Project.

3. Performance Monitoring

- During construction, the Director or his designee may request periodic meetings with NEL/GDHI representatives to review compliance procedures. If the Director reasonably determines that NEL/GDHI is not in compliance with the Authority approved "Construction Monitoring Plan" with respect to a Component, the Authority shall require NEL/GDHI to take such actions as are reasonably necessary to achieve full compliance with respect to such Component within thirty (30) days of such directive.

- It is recognized that the Authority may keep a record of compliance with respect to each Component on file. This information may be considered in deciding whether to award future development parcels (unrelated to the Project) to NEL/GDHI.

- NEL/GDHI shall send a progress report annually to the Authority including information regarding traffic, transit and parking characteristics of employees and visitors to each Component.

4. Traffic Operation and Control

- NEL/GDHI agrees to participate in traffic studies and implementation of short-term improvements and selected measures to help traffic management in the Back Bay including improved signage and to expend up to $75,000 towards this effort.

- The Authority on its own behalf and on behalf of the City of Boston agrees to take necessary steps to further improve management of traffic control and parking in the Project site area and the Back Bay generally.

5. Joint Venture Liability

- The Authority agrees that NEL/GDHI and its successors in interest shall be liable for breaches of obligations under this Agreement with respect to a particular Component only while NEL/GDHI or any successor in interest, as the case may be, is owner of the Component in question. The Authority further agrees to look solely to the interest in the Component in question of NEL/GDHI or its successors, as the case may be, for any claim against NEL/GDHI or any successor arising out of this Agreement in connection with such Component. Neither NEL/GDHI nor any trustee, beneficiary, partner, manager, agent or employee of NEL/GDHI (or its successors and assigns) shall ever be personally or individually liable; nor shall it or they ever be answerable or liable in any equitable proceeding or order beyond the extent of its or their interest in the Component in question.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding as of the day and year first above written.

BOSTON REDEVELOPMENT AUTHORITY

Stephen Coyle, Director

Approved as to Legal Form:

General Counsel
Boston Redevelopment Authority

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY
By: Copley Real Estate Advisors, Inc., Asset Manager and Advisor, hereunto duly auth

By:
Name:
Title:

GERALD D. HINES, INTERESTS, INC.

By:
Name:
Title:

#4707

Gerald D. Hines Interests 482 Boylston Street Suite 302 Boston Massachusetts 02116 Area Code 617 236-0096

December 11, 1985

Ms. Susan Allen
Boston Redevelopment Authority
Ninth Floor
Boston City Hall
Boston, MA 02201

RE: Approval of Western Component General Contractor

Dear Susan:

Pursuant to Section 101 Paragraph L of the Sales and Construction Agreement between the Joint Venture and the City of Boston, we are writing to obtain the approval of the Authority of our selection of our General Contractor for the Western Component.

We have selected a Joint Venture of Bond Brothers and Dugan and Meyers. Enclosed is some background literature on both firms. Bond Brothers is a local contractor based in Everett, Massachusetts and Dugan and Meyers is based in Cincinnati. The Hines Interests has a long and established working relationship with Dugan and Meyers. They have built such projects as the Hartford Steam and Boiler Building in Hartford, Central Trust Center in Cincinnati, The Huntington Bank Center in Columbus, and the Southeast Financial Center in Miami. These projects range in size from approximately 400,000 square feet of office space up to 1 million square feet. We have total confidence in this Joint Venture's capability to undertake the construction of the Western Component.

In order to comply with the terms of the Sales and Construction Agreement to provide us with the Authority's written approval we would ask that the Authority counter sign one copy of this letter and return it to us for our records. If you should have any questions or require additional information, please feel free to contact me.

Very truly yours,

Kenneth S. Moczulski

KSM:jda
KSM121050
Attachments
cc: B. Fallon
M. Harrity
E. Ross

Approved this 19th day of December, 1985 by the Boston Redevelopment Authority

BOSTON REDEVELOPMENT AUTHORITY
ONE CITY HALL SQUARE
BOSTON, MASS. 02201

December 19, 1985

Mr. Kenneth S. Moczulski
Gerald D. Hines Interests, Inc.
426 Boylston Street
Boston, Massachusetts

RE: Western Component
Working Drawing Approval
500 Boylston Street, Boston, Mass.

Dear Mr. Moczulski:

We have reviewed your Working Drawing submission of October 3, 1985, and accompanying letters of October 25, 1985 and December 18, 1985. We are pleased to grant working drawings approval subject to submittal of change order drawings indicating the addition of the curved stone at the 32 foot and 87 foot cornices in the courtyards and the scooped corners and the changing of the stone finish of the water table and the applied granite plate at the fifth floor spandrel from flamed to polished Stony Creek.

This approval is based on the plan list attached hereto and specifications submitted October 3, 1985.

In addition, Stony Creek granite is approved as the basic building granite and Napoleon Red as the granite to be used as the decorative checker pattern at the entrances to the office tower (Drawing A6.16/3 and A4.06) and for the Clarendon Walkway entrance (Drawing A4.11/13).

We appreciate the effort of your architect, John Burgee Architects with Philip Johnson, and look forward to the commencement of construction of the Western Component of 500 Boylston Street.

Very truly yours,

BOSTON REDEVELOPMENT AUTHORITY

BY: _____

#4707

Gerald D. Hines Interests 462 Boylston Street, Suite 302 Boston, Massachusetts 02116 Area Code 617 236-0096

December 19, 1985

Mr. Mitchell Fischman
Boston Redevelopment Authority
City Hall Plaza
Boston, Massachusetts 02108

RE: Western Component
500 Boylston Street
Boston Residents Construction Employment Plan

Dear Mitch:

Pursuant to your discussions with Brian Fallon of this date, we hereby agree to the following changes to the Bond Bros./Dugan & Meyers, Joint Venture letter of October 17, 1985:

1. Insert in the first line of the first paragraph after the word acknowledges, "that it is contractually bound to fulfill the requirements of"

2. Under the Subcontractors heading, paragraph no. 2, change the reference of monthly reports to weekly.

3. Under the Subcontractors heading, paragraph no. 3, insert in line two after the word subcontractor the following: "and the BRA Compliance Office".

4. Add the following sentence to the last paragraph: "We understand that the above outlined program is acceptable as a preliminary employment plan and commits to work with the BRA to complete a final plan in the near future".

We understand that with these changes the Boston Residents Construction Employment Plan for the Western Component is agreeable and acceptable to the BRA.

Very truly yours,

Kenneth S. Moczulski

Agreed and Acknowledged this
19th day of December, 1985

By: _____

OCT 18 1985

BOND BROS./

Bond Bros/Dugan & Meyers, A Joint Venture

October 17, 1985

Gerald D. Hines Interests
462 Boylston Street
Boston, Massachusetts 02116

Attn: Andrew Stallings

Gentlemen:

Bond Bros./Dugan & Meyers, Joint Venture, acknowledges the Mayors Executive Order extending the Boston Residents Job Policy Plan and commits to an effort, in good faith, to encourage compliance by Bond Bro./Dugan & Meyers, Joint Venture, our subcontractors and participating building trades. We intend to accomplish this by the following efforts:

Subcontractors

1. Include the Mayors Executive Order as part of our standard subcontract agreement.

2. Require each subcontractor to submit monthly reports identifying compliance on a trade basis. (See attached proposed format)

3. Follow up each non-complying report with correspondence to the subcontractor identifying areas of non-compliance and requiring response as to the action the subcontractor shall take to comply.

Building Trades

1. Advise all building trades, by letter, that the project is operating under the auspices of the Mayors Exexcutive Order and ask their cooperation in providing the designated quotes.

2. In the event the building trades are unable to comply, Bond Bros./Dugan & Meyers will seek compliance by attempting to hire through other sources, subject to the terms and conditions of labor agreements.

11110 Kenwood Road
Cincinnati, Ohio 45242 1863
(513) 891-4300

Andrew Stallings
Gerald D. Hines Interests

In addition to the above, we are informing the State Office of Minority Business Assistance and the Contractors Association of Boston Inc. of the subcontractor bid dates to encourage minority business enterprise participation. The latter shall receive plans and specifications in order to assist subcontractors in preparation of their bids.

We trust that the outlined program is acceptable and that our continued mutual efforts will lead to a successful project in terms of conformance with the Mayors Executive Order. If you have any comments or questions, please contact the undersigned.

Sincerely,

BOND BROS./DUGAN & MEYERS,
JOINT VENTURE

Anthony J. Cotter
Project Manager

BOSTON RESIDENTS CONSTRUCTION EMPLOYMENT PLAN

MONTHLY EMPLOYMENT UTILIZATION REPORT

NAME AND LOCATION OF CONTRACTOR:

REPORTING PERIOD
FROM: _____
TO: _____

PROJECT: FIVE HUNDRED BOYLSTON STREET
OWNER: NEW ENGLAND LIFE & GERALD D. HINES INTERESTS
CONTRACTOR: BOND BROS./DUGAN & MEYERS - A JOINT VENTURE

CURRENT GOALS

BOSTON RES.	50%
MINORITY	25%
FEMALE	10%

WORK HOURS OF EMPLOYMENT

CONSTRUCTION TRADE	CLASSIFICATIONS	TOTAL ALL EMPLOYEES BY TRADE	BOSTON RESIDENTS	MINORITIES	FEMALE	RESIDENT PERCENTAGE	MINORITY PERCENTAGE	FEMALE PERCENTAGE
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
TOTAL JOURNEY WORKERS								
TOTAL APPRENTICES								
TOTAL TRAINEES								
GRAND TOTAL								

COMPANY OFFICIAL'S SIGNATURE AND TITLE | TELEPHONE NUMBER (Include area code) | DATE SIGNED | PAGE ___ OF ___

#1707

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY
501 Boylston Street
Boston, MA 02117

and

GERALD D. HINES INTERESTS, INC.
462 Boylston Street
Boston, MA 02116

December 19, 1985

CITY OF BOSTON
Boston City Hall
One City Hall Square
Boston, MA 02201

BOSTON REDEVELOPMENT AUTHORITY
Boston City Hall
One City Hall Square
Boston, MA 02201

Ladies and Gentlemen:

This letter sets forth the agreement among the joint venture of New England Mutual Life Insurance Company and Gerald D. Hines Interests, Inc. (the "Joint Venture"), the City of Boston (the "City") and the Boston Redevelopment Authority (the "Authority") regarding the development of each of the western component (the "Western Component") and the eastern component (the "Eastern Component") of the 500 Boylston Street project, as each such Component is defined in the Amended and Restated Sale and Construction Agreement to be entered into by and among the Joint Venture, the City acting by and through the Public Facilities Commission and the Authority.

The Joint Venture, the City and the Authority hereby acknowledge and agree that as of the date hereof, the Authority has granted the Joint Venture "final design approval" in accordance with its vote of June 27, 1985 with respect to the Western Component in order to enable the Joint Venture to obtain a building permit for the Western Component and to expedite the commencement and prosecution of construction thereof. It is understood and agreed that the term "final design approval" as set forth in the Authority's June 27, 1985 vote is synonymous with the certifications required by Sections 3-1A and 26-3.2(d) of the Boston Zoning Code.

In consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Joint Venture, the City and the Authority hereby agree as follows:

1. Notwithstanding the approvals for the Eastern Component granted by the Authority, the City and the Commonwealth of Massachusetts, the Joint Venture and the Authority agree to institute the following process with respect to the Eastern Component:

a. The Director of the Authority will establish a five-member advisory panel (the "Design Advisory Panel" or "DAP") to suggest revised design criteria for the Eastern Component and to make observations and recommendations to the Joint Venture and the Authority regarding the drawings for the Eastern Component prepared by the Joint Venture in response to such revised design criteria. The DAP shall have no authority to review or to make observations or recommendations regarding the Western Component. The DAP will be comprised of one representative from each of the Authority, the Joint Venture, the Neighborhood Association of the Back Bay and the Boston Society of Architects and a fifth member to be appointed no later than March 15, 1986 by a majority of the other four members, which majority shall include the Joint Venture. In the event a representative of either or both of the Neighborhood Association of the Back Bay and the Boston Society of Architects fails or is unable to serve as a member of the DAP, the Authority and the Joint Venture shall appoint an alternate member. After March 15, 1986, the Director of the Authority may, at any time, appoint a fifth member to the DAP, provided that if, at any time after March 15, 1986, the DAP includes at least four members, it shall perform its functions as set forth in this Agreement without a fifth member.

b. The DAP shall review the Eastern Component as set forth in the Design Development Drawing Submittal transmitted to the Authority on June 5, 1985 (the "Approved Eastern Component Plans") and shall, on or before May 15, 1986, make written observations and recommendations to the Joint Venture regarding the appropriateness of the Approved Eastern Component Plans for the Eastern Component site. In the event the DAP recommends proceeding with the Approved Eastern Component Plans, the Joint Venture shall promptly proceed with its application to the Authority for final design approval with respect to the Eastern Component.

c. In the event the DAP determines to proceed with a study of alternative design criteria for the Eastern Component, it shall, on or before July 15, 1986, make written observations and recommendations to the Joint Venture regarding proposed revised design criteria for the Eastern Component. The components of such revised design criteria shall be:

i. Floor area ratio as defined in Section 2-1(20) of the Boston Zoning Code shall be 8.0 for the Eastern Component, provided that in no event shall gross floor area as defined in Section 2-1(21) of the Boston Zoning Code be less than 481,133 square feet for the Eastern Component.

ii. Feasibility of retaining the Colton Building at 462 Boylston Street.

iii. Building envelope restrictions for the Eastern Component such as height, yard and parapet setback restrictions.

iv. Vehicular access and egress routes for the Eastern Component.

v. Suggested exterior building materials for the Eastern Component.

vi. Alternate uses of the Eastern Component or portions thereof.

d. Within 120 days after receipt of the DAP's observations and recommendations regarding revised design criteria for the Eastern Component, the Joint Venture shall determine whether to proceed with the preparation of plans conforming with the revised design criteria. In the event the Joint Venture determines not to proceed with the preparation of such plans, it will promptly proceed with its application to the Authority for final design approval with respect to the Eastern Component. In the event the Joint Venture determines to proceed with plans conforming with the revised design criteria, it shall follow a process identical to the Design Review Process set forth in the Sale and Construction Agreement with respect to such plans, provided that copies of all schematic design submissions to the Authority pursuant to such Design Review Process shall simultaneously be delivered to the DAP. It is hereby understood and agreed that the DAP's role and function shall terminate upon approval by the Authority's Director of

revised schematic design submissions for the Eastern Component. The DAP shall act solely in an advisory capacity in reviewing such submissions and may, in its discretion, make written observations and recommendations to the Joint Venture regarding the plans prepared to conform with the revised design criteria for the Eastern Component. Notwithstanding the foregoing, review by the DAP of the Joint Venture's schematic design submissions pursuant to the Design Review Process shall not in any way extend the time periods set forth in the Sale and Construction Agreement for review of such submissions made in accordance with the Design Review Process, it being understood and agreed that the DAP's principal function shall be to suggest revised design criteria for the Eastern Component and that its secondary function shall be to comment upon schematic design submissions made in accordance with such criteria.

e. In the event the Joint Venture elects to proceed with a design proposal for the Eastern Component other than that set forth on the Approved Eastern Component Plans, the Joint Venture will apply to the Authority and the Zoning Commission of the City to amend the Planned Development Area/Development Impact Project Plan (the "PDA/DIP Plan") for Planned Development Area No. 17 as necessary to permit the development of the Eastern Component in accordance with such design proposal. It is understood and agreed that the Director and the staff of the Authority shall submit a memorandum to the Authority's Board recommending approval of such amendment at the earliest possible date but in no event later than 30 days after the Joint Venture's application therefor provided that the following requirements are satisfied:

i. Approval by the Authority's staff of the Schematic Design submission for the revised Eastern Component.

ii. Preparation by the Joint Venture of shadow, wind, traffic and subsurface studies for the revised Eastern Component (subsurface studies to be performed if the excavation for the revised Eastern Component exceeds 45 feet) which do not show an effect which is materially greater than that indicated by studies conducted for the Authority in connection with the Approved Eastern Component Plans.

If such amendment is approved, the Joint Venture will apply to the Board of Appeal of the City for whatever zoning exceptions or conditional use permits as are deemed necessary or desirable by its counsel to permit the development of the Eastern Component in accordance with the revised drawings therefor.

f. If, for any reason whatsoever, including, without limitation, those set forth above, the Joint Venture determines not to, or is unable to, proceed with revised plans for the Eastern Component, the Joint Venture shall, no later than the time when it determines that it must obtain the approvals necessary to comply with the provisions of the Sale and Construction Agreement and other documentation requiring the continuous and sequential development of the Western and Eastern Components and the provisions of Section 6A-1 of the Boston Zoning Code regarding the duration of zoning exceptions, apply to the Authority for final design approval with respect to the Approved Eastern Component Plans and within 30 days thereafter, the Authority shall either grant or deny such final design approval.

g. In the event the Authority denies the Joint Venture's application for final design approval for the Approved Eastern Component Plans as set forth in Paragraph f. above, the Joint Venture shall apply for and the Authority shall fully cooperate with the Joint Venture to grant within 30 days after receipt of such application, and to petition the Zoning Commission to grant within 15 days thereafter, an amendment to the PDA/DIP Plan (and all other documentation ancillary thereto) to eliminate the Eastern Component from such Plan and to restrict such Plan to the Western Component so that:

i. the approvals granted for the development, construction and use of the Western Component remain in full force and effect and unaffected by any failure or determination not to construct the Eastern Component in accordance with the PDA/DIP Plan; and

ii. the Joint Venture is free to develop the Eastern Component site in accordance with the provisions of the Boston Zoning Code.

h. The Director and the staff of the Authority and the City agree to advise the Joint Venture concerning, and will actively cooperate with and publicly support, the Joint Venture's efforts to develop the Eastern Component site and

to assure the continued validity and enforceability of the permits and approvals granted for the Western Component site in accordance with this Section 1, and in connection therewith, to actively cooperate with and publicly support, the Joint Venture's efforts to obtain from the appropriate municipal and state bodies and agencies all such permits, licenses and approvals as may be necessary or desirable in order to carry out the development of the Eastern Component and the Western Component in the most expeditious and reasonable manner, including, without limitation, approval of an amendment to the PDA/DIP Plan by the Authority and the Boston Zoning Commission and granting of exceptions, conditional use permits or variances by the Board of Appeal.

It is the intention of the parties that the changes to the Approved Eastern Component Plans which may be made by the Joint Venture as a result of the process set forth in this Paragraph 1 shall not require the Joint Venture to perform additional environmental studies for any city or state agency except as set forth in Subparagraph 1.e.ii above.

i. It is the understanding of the parties hereto that no change in the zoning requirements applicable to the Back Bay, Boylston Street, or any portion thereof, shall effect in any way either the Western Component or the Eastern Component.

2. The agreements of the Joint Venture set forth in Paragraph 1 above are expressly conditioned upon execution of the following documentation and granting of the following approvals by the Authority which counsel to the Joint Venture considers necessary in connection with the prompt commencement, prosecution of construction and use of the Western Component.

a. Execution of an Amended and Restated Sale and Construction Agreement with respect to the Western Component and the Eastern Component among the Authority, the City and the Joint Venture to be considered by the Board of the Authority and executed by the Authority no later than January 9, 1986, the major terms of which are set forth in the memorandum attached hereto as Exhibit A, which has been reviewed and approved by the Director of the Authority.

b. The following documentation which has been executed by the Director of the Authority and, where appropriate, the Joint Venture:

i. Letter approving wind studies submitted by the Joint Venture on December 5, 1985 in response to the letter dated June 21, 1985 from Stephen Coyle to Kenneth S. Moczulski as such studies relate to the Western Component, a copy of which signed letter is attached hereto as Exhibit B.

ii. Parking Management Plan with respect to the Western Component and the Eastern Component, a copy of which Plan executed by the Authority and the Joint Venture is attached hereto as Exhibit C.

iii. Traffic Management Plan with respect to the Western Component and the Eastern Component, a copy of which Plan executed by the Authority and the Joint Venture is attached hereto as Exhibit D.

iv. Approval of the General Contractor for the Western Component by countersignature of the letter submitted by the Joint Venture on December 11, 1985, a copy of which countersigned letter is attached hereto as Exhibit E.

c. The Director of the Authority hereby grants the Joint Venture the following approvals with respect to the Western Component (all of which are preconditions to obtaining a valid building permit for the Western Component) and this Agreement constitutes the Director's certification of such approvals:

i. Certification of compliance of the Contract Documents for the Western Component with the PDA/DIP Plan in accordance with Section 3-1A of the Boston Zoning Code.

ii. Certification that the Western Component has been subject to design review and that the Joint Venture has entered into a Development Impact Project Agreement dated June 28, 1985 in accordance with Section 26-3 of the Boston Zoning Code.

iii. Certification that the Joint Venture has complied with the Mayor's Executive Order dated July 12, 1985 Extending the Boston Residents Job Policy. The Joint Venture has submitted a plan regarding hiring of women, minority and Boston resident workers in connection with the construction of the Western Component, a copy of which is attached hereto as Exhibit F, which Plan, the Authority acknowledges, complies with the requirements of such Executive Order.

d. The Director and the staff of the Authority agree to advise the Joint Venture concerning, and will actively cooperate with and publicly support, the Joint Venture's efforts to obtain from the appropriate municipal and state bodies and agencies all such permits, licenses and approvals which may be necessary or desirable in order to carry out the development of the Western Component in the most expeditious and reasonable manner.

3. The agreements of the Joint Venture set forth in Paragraph 1 above are expressly conditioned upon the active cooperation and public support by the City of the Joint Venture's efforts to obtain from the appropriate municipal and state bodies and agencies all such permits, licenses and approvals which may be necessary or desirable in order to carry out the development of the Western Component in the most expeditious and reasonable manner. Such active cooperation and public support by the City will include assistance by the City in the Joint Venture's pursuing of the following permits and approvals for the Western Component on or about the dates indicated (which dates are subject to the Joint Venture's submission of the necessary applications in a timely manner):

a. All approvals to be granted by the Authority for the Western Component as set forth in Paragraph 2 above.

b. Demolition permit for the Western Component from the Inspectional Services Department -- December 19, 1985.

c. Building permit for the Western Component from the Inspectional Services Department -- December 31, 1985.

d. Parking garage permit and fuel storage license for the Western Component from the Public Safety Commission, Committee on Licenses -- December 31, 1985.

e. Parking freeze permit for the Western Component from the Boston Air Pollution Control Commission -- January 30, 1986.

f. Approval of construction within 100 feet of a park from the Parks and Recreation Commission -- December 31, 1985.

g. Curb cut permit for the Western Component from the Public Works Department -- December 31, 1985.

4. The City and the Director and staff of the Authority agree to advise the Joint Venture concerning, and will actively cooperate with and publicly support, the Joint Venture's proposed application to the Authority and the Boston Zoning Commission for an amendment to the PDA/DIP Plan to (i) permit parking for an aggregate of approximately 1270 vehicles in the Western Component and the Eastern Component (instead of the 1000 presently permitted under the PDA/DIP Plan), it being currently contemplated that parking for approximately 673 vehicles shall be provided in the Western Component and that parking for approximately 597 vehicles shall be provided in the Eastern Component, and (ii) permit trade, professional or other schools and/or a car wash to be located in the Western Component or the Eastern Component. The parties recognize that at its meeting on August 26, 1985, the Zoning Commission voted to strongly support the addition of 270 parking spaces to the project.

This agreement shall be binding upon the City, the Authority and the Joint Venture and their successors and assigns.

Executed as a sealed instrument by the Joint Venture, the Authority and the City as of the day and year first above written.

Very truly yours,

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

By: Copley Real Estate Advisors, Inc., Asset Manager and Advisor, hereunto duly authorized

By: _____
Name:
Title:

GERALD D. HINES INTERESTS, INC.

By: _____
Name:
Title:

Agreed to as of the day
and year first above written:

CITY OF BOSTON

By:_____
Raymond L. Flynn
Mayor

BOSTON REDEVELOPMENT AUTHORITY

By:_____
Stephen Coyle
Director

EXHIBIT A

MEMORANDUM

From:	Hale and Dorr
Project:	500 Boylston Street
Re:	Revisions to be Incorporated in an Amended and Restated Sale and Construction Agreement
Date:	December 11, 1985

The purpose of this memorandum is to summarize the most significant revisions to the Sale and Construction Agreement among the City of Boston, Boston Redevelopment Authority, New England Mutual Life Insurance Company and Gerald D. Hines Interests, Inc. dated June 30, 1984 (the "Agreement") which must be addressed in an Amended and Restated Sale and Construction Agreement (the "Amended Agreement"). These revisions are necessary to satisfy the requirements of the lender for the project and to reflect the recent discussions and agreement between Stephen Coyle and representatives of the developer. The discussion of the matters set forth below is not meant to be comprehensive as other less noteworthy changes will also be required.

Numbers in parentheses are references to pages in the Agreement.

1. Separation of Components. The Amended Agreement must reflect a strict separation of the obligations and liabilities with respect to each Component. This matter is of particular concern to the lender. Some of the specific provisions which must be addressed are as follows:

(a) Such defined terms as "Improvements", "Project", "Project Site" and "Property" (10-11) relate to both Components. Since obligations in the Agreement are often tied to these defined terms, the Amended Agreement must clarify that each Component is to be treated independently. For example, the Agreement requires the Improvements to contain approximately 1,200,000 square feet of office space, 100,000 square feet of retail space and the like (22). These types of requirements should be broken down by

Component. Similarly, the definition of the Western Component should be specified with more particularity and the boundary line between the two Components firmly established.

(b) The Agreement requires the Developer to obtain the BRA's approval for an interim plan for design and use of the Eastern Component in the event that the Developer does not commence construction of the Eastern Component within 90 days of completion of the Western Component (23). The Amended Agreement must make clear that the satisfaction of this requirement is not necessary for the issuance of a Certificate of Completion for the Western Component and that any failure by the Developer to fulfill this obligation is not a default on the part of the entity developing the Western Component.

(c) Section 301.c. of the Agreement (25) could be interpreted to make obligations relative to one Component covenants running with the land on which the other Component is to be located. (See also Section 303(d)(36). The Amended Agreement must make clear that covenants are to be applied separately to each Component.

(d) The dates for commencement of demolition and construction must clearly apply to each Component independently (34).

(e) Section 303.d. of the Agreement (36) must be clarified to permit a mortgagee who acquires title to a Component Site to elect to complete only the Component to be located thereon.

(f) Since the development entity for the Western Component, as such, has no real control over the Eastern Component Site, a Certificate of Completion for the Western Component must not be contingent upon BRA approval of a plan for use of the existing buildings on the Eastern Component Site as the Agreement now provides (37).

(g) The Amended Agreement must explicitly provide that the ownership entity of a Component which has been approved by the BRA pursuant to the provisions of Article V (45), assumes only those obligations which relate to the Component in question. The deed of the Component Site, which should be approved by the BRA as part of its approval of the transfer, should also so provide.

(h) The last sentence of Section 503.c. (55) must be limited to make it clear that a mortgagee of one Component is not responsible for any obligations associated with the other

Component, except (in the case of a mortgagee of the Western Component) for any aspects related to the Eastern Component which are required to be completed in order to obtain a Certificate of Completion for the Western Component (i.e., see discussion relative to the separating walls and the so-called "plan" for keeping certain premises in the Eastern Component site in active use (37)).

(i) The remedies upon default set forth in Article IX (63-67,75), including the right to cause a reconveyance if it survives, must be strictly limited to the Component as to which a default has occurred. Section 1311 must be clarified to prevent injunctive relief against the owner of one Component for defaults pertaining to the other Component.

2. Design Review. The design review process set forth in Section 302 (25-33) must be amended to reflect the design review process which will be undertaken in connection with the Eastern Component pursuant to the Agreement. As to the Western Component, there must be an acknowledgment by the BRA in the Amended Agreement of compliance with all design review procedures and final design approval.

3. Conditions. The Amended Agreement must contain an acknowledgment of all "Conditions" which have been satisfied and approval of all matters to be approved by the date of execution of the Amended Agreement (e.g., wind studies under BRA EIR, parking management plan, hiring plan) (3).

4. Eastern Component Construction Commencement Date. The Construction Commencement Date for the Eastern Component must be adjusted (7).

5. Developer Entity. The Amended Agreement must explicitly recognize the development team which will develop the Western Component and the make-up thereof (9). In this regard, Section 210 provides that NEL shall make all decisions with respect to the Project Site until a permitted transfer of the Project Site, or a portion thereof, occurs (22). As of the assumption of control of the Western Component Site by the development team, it must be clear that all decisions with respect to the Western Component are to be made by the development team. Further, the BRA must approve the ownership entity for the Western Component under the Agreement. The BRA should also approve the structure of the ownership entity, including management and control thereunder. The representation in Section 501.a. that NEL

and Hines will be the sole managing and controlling partners of the development entity may not be correct and perhaps should be revised (45-46).

6. Closing. Article II can be amended to reflect the fact that the sale has occurred and the full purchase price therefor has been paid (13-21).

7. Separating Wall Between Components. The dates pertaining to commencement of construction of the Eastern Component which trigger the submission of plans to the BRA with respect to the wall separating the Eastern and Western Components must be amended (33). A clarification that this is a Western Component obligation is probably desirable. However, since NEL/Hines controls the Eastern Component, rather than the approved development team for the Western Component, only NEL/Hines or an approved development team for the Eastern Component should be responsible for determining if construction of the Eastern Component will commence prior to the trigger date.

8. Mortgages. The Agreement permits encumbrances by way of a "bona fide mortgage"(51). The Amended Agreement must make it clear that a mortgage in connection with a loan by a partner or affiliate of a partner is a bona fide mortgage. The Amended Agreement must also provide that the mortgage survives any default and any sale or conveyance pursuant to the remedies provided in the Amended Agreement (74).

9. Reconveyance Provisions. All reverter provisions in the Agreement relating to the Eastern Component must be deleted and the scheme governing reconveyance in the event of default now applicable to the entire project, must be compressed to apply to the Western Component only. In addition, the provisions governing distribution of resale proceeds following a reconveyance to the BRA must be revised. Linkage payments must be excluded from the priority distribution payable before repayment of any mortgage indebtedness and equity contributions (68-71). (This was agreed to with respect to the International Place project by means of the estoppel letter dated January 11, 1985, paragraph 5.a.). In addition, since the partners in the development entity for the Western Component will be contributing equity, Section 901.c.(2) must be clarified with respect to repayment of equity contributions.

10. Mortgagee's Right to Cure. Section 903 which deals with cure by a mortgagee of Developer's default must be revised to provide that (a) the mortgagee's cure period begins upon the expiration of Developer's cure period, (b) the mortgagee's cure

period will be extended to permit mortgagee to gain possession and control of the Project, (c) the BRA cannot invoke any remedies so long as the mortgagee is diligently proceeding with the cure and (d) notices of default to the Developer are not valid unless also given to the mortgagee.

11. Limitation on Liability. The $500,000 limitation on liability in Section 1311 must be divided between the two Components (89).

12. General Update. We may also wish to generally update the Agreement to reflect the current reality. In this regard, executed agreements and more current drafts should be substituted for their counterparts in the exhibits to the Agreement.

13. Estoppels. Estoppels must be issued by the BRA with respect to many other matters as well. Many of these issues can be addressed in the Amended Agreement itself.

EXHIBIT B

BOSTON REDEVELOPMENT AUTHORITY
Boston City Hall
One City Hall Square
Boston, MA 02201

December 19, 1985

New England Mutual
Life Insurance Company
501 Boylston Street
Boston, MA 02117

Gerald D. Hines Interests, Inc.
462 Boylston Street
Boston, MA 02116

Re: 500 Boylston Street, Boston
Approval of Wind Studies

Reference is made to submissions made by Kenneth S. Moczulski to the Boston Redevelopment Authority (the "Authority") on December 4, 1985 in response to a letter from Stephen Coyle, Director of the Authority, to Kenneth S. Moczulski dated June 21, 1985 regarding additional wind studies to be conducted in connection with the Western and Eastern Components of the 500 Boylston Street project.

This is to acknowledge that the wind studies submitted on December 4, 1985 are hereby approved by the Authority. Approval of such wind studies completes approval of all of the studies of environmental impacts of the Western and Eastern Components to be carried out for the Authority except as set forth in the letter-agreement among the Authority, the joint venture of New England Mutual Life Insurance Company and Gerald D. Hines Interests, Inc., and the City of Boston of even date herewith.

Sincerely yours,

Stephen Coyle, Director

EXHIBIT C

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY
c/o Copley Real Estate Advisors, Inc.
535 Boylston Street
Boston, Massachusetts 02116

and

GERALD D. HINES INTERESTS, INC.
462 Boylston Street, Suite 302
Boston, Massachusetts 02116

December , 1985

Boston Redevelopment Authority
Boston City Hall
One City Hall Square
Bostoh, Massachusetts 02201

Re: Parking Management Plan for proposed development to be located on premises bounded by Berkeley, Boylston and Clarendon Streets and St. James Avenue, Boston ("Project")

Gentlemen:

This letter sets forth the marketing plan for parking spaces in the Project to be instituted by the undersigned.

Parking for approximately 673 vehicles will be provided in the western component of the Project (the "Western Component"). Of the 673 spaces to be located in the Western Component, 300 will be designated for short-term public use, 25 will be designated for public use on a monthly basis ("Public Monthly Spaces"), and 348 will be designated for tenants of the Project. Of the 25 Public Monthly Spaces, 20 will be reserved for high-occupancy vehicles such as car pool vans ("Car Pool Spaces"). The Car Pool Spaces will be placed in convenient locations in the parking facility and will be made available at monthly rates not to exceed the lowest monthly parking rate then available at the Western Component.

If the eastern component of the Project (the "Eastern Component") is constructed in accordance with the design contemplated by the Sale and Construction Agreement between the City of Boston, the Boston Redevelopment Authority (the "BRA"), New England Mutual Life Insurance Company and Gerald D. Hines

Interests, Inc. (together, the "Developer") dated as of June 30, 1984 (the "Sale and Construction Agreement"), the Eastern Component will provide parking for approximately 597 vehicles. Of those 597 spaces, 15 will be designated for short-term public use, 285 will be designated as Public Monthly Spaces, and 297 will be designated for tenants of the Project. Of the 285 Public Monthly Spaces, 20 will be designated Car Pool Spaces.

If construction of the Eastern Component is not commenced in accordance with the Sale and Construction Agreement, until such commencement of construction, the Developer agrees to provide an outdoor surface level parking facility including approximately 125 public parking spaces on the Eastern Component site. The ratio of Public Monthly and Car Pool Spaces to short-term spaces, will be mutually agreed upon by the BRA and the Developer.

Although this letter agreement anticipates the provision of a total of 1270 parking spaces if and when both the Western Component and Eastern Component parking facilities are completed, the Planned Development Area Plan (the "PDA") for the Project currently permits a total of only 1000 parking spaces. In the event the PDA is not successfully amended to allow for an additional 270 spaces, the allocation of spaces will be revised as follows. Parking for approximately 600 vehicles will be provided in the Western Component, with the total number of spaces designated for public uses to remain unchanged and the total number of spaces designated for tenants of the Project to be reduced by 73 spaces to a total of 275 spaces. Parking for approximately 400 vehicles will be provided in the Eastern Component, with the total number of spaces designated for public uses to remain unchanged and the total number of spaces designated for tenants of the Project to be reduced by 197 spaces to a total of 100 spaces.

In both the Western Component and the Eastern Component, parking will be provided on three levels located below grade. During construction of the Western Component, no fewer than 75 public spaces for short-term hourly or daily use will be provided on the site of or within three blocks of the Project.

In order to market the Public Monthly Spaces to the public, the undersigned intend to undertake reasonable public advertising of the availability of such spaces and, prior to the opening of the parking facility in the Western Component and the Eastern Component, to place an appropriate exterior sign on the applicable component site indicating the availability of such spaces. After the opening of the parking facility in the Western Component, a sign shall be maintained within the parking facility indicating the availability of monthly parking spaces in the Project. Public Monthly Spaces will be allocated based upon a "lottery style"

allocation system no less than 3 months after the opening of the parking facility in the Western Component and the Eastern Component. Rates for the Public Monthly Spaces will be equal to that charged to tenants of the Project for the parking spaces designated for their use as such rates may be adjusted.

In the event all public monthly parking spaces are rented, the undersigned intends to keep a waiting list of parties desiring Public Monthly Spaces. As the Spaces become available, they will be offered to parties on the waiting list.

Approximately one year after the completion of the Eastern Component, the Developer and the BRA agree to discuss utilization of the parking facilities.

Every three years the utilization of all public parking spaces will be reviewed. If spaces designated for short-term hours or daily use have not been utilized during periods of the year of the most intensive parking use or Public Monthly Spaces have not been utilized on a reasonably regular basis during the preceding three-year period, an appropriate number of such spaces will be converted to tenant use with your approval, which approval is not to be unreasonably withheld or delayed.

When the Western Component parking facility is completed and in operation, a short-term parking program will be initiated, which will require that at least 100 of the public short-term spaces remain unoccupied during normal business days until 9:30 a.m. The completion of the Eastern Component parking facility shall in no event require an increase in the number of spaces that must remain unoccupied. It is agreed and understood that the purpose of this provision is not to keep spaces unnecessarily vacant, but rather to improve service to users of the Project parking facility.

The Project parking facility will also provide additional conveniences for owners of vehicles of the neighborhoods surrounding the Project site displaying "residential parking stickers." In particular, such vehicles shall be allowed access to the Project parking facility during major snow emergencies to the extent spaces are available and, pursuant to a plan to be developed with input from the BRA and residential community representatives, shall be allowed to park on nights and weekends in the Project parking facility, during the facility's standard hours of operation, at special rates.

Upon completion of both the Western Component and the Eastern Component, the facility shall be treated as a single parking facility for purposes of allocation of spaces between public and tenant uses. The total number of spaces allocated to each use, however, shall continue in accordance with this letter agreement.

Kindly acknowledge your approval of the foregoing by signing and returning the enclosed copy of this letter.

Very truly yours,

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

By: Copley Real Estate Advisors, Inc.
Asset Manager and Advisor,
hereunto duly authorized

By:_____

GERALD D. HINES INTERESTS, INC.

By:_____

Consented to this day
of , 1985

BOSTON REDEVELOPMENT AUTHORITY

By:_____
Stephen F. Coyle, Director

EXHIBIT D

MEMORANDUM OF UNDERSTANDING

BETWEEN BOSTON REDEVELOPMENT AUTHORITY

and

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY/
GERALD D. HINES INTERESTS, INC., REDEVELOPERS
OF 500 BOYLSTON STREET IN THE BACK BAY

This Memorandum of Understanding entered into this ____ day of _____, 1985, by and between the Boston Redevelopment Authority, a public body politic and corporate, duly organized and existing pursuant to Chapter 121B of the Massachusetts General Laws, having as its usual place of business in Boston, Massachusetts, hereinafter referred to as the "Authority", and New England Mutual Life Insurance Company, hereinafter referred to as "NEL", and Gerald D. Hines Interests, Inc., herein referred to as "GDHI".

WITNESSETH THAT:

WHEREAS, the Authority has authorized the Director of the Authority (the "Director") to execute a "Cooperation Agreement" with NEL/GDHI concerning the carrying out of the redevelopment of 500 Boylston Street in the Back Bay, consisting of a western component (the "Western Component") and an eastern component (the "Eastern Component") (together the "Project");

WHEREAS, the Authority Board has voted to authorize the Director to enter into a "Sale and Construction" Agreement with NEL/GDHI; and

WHEREAS, the Authority and NEL/GDHI desire to establish a plan to enhance traffic flow and parking availability in connection with construction and operation of the Project.

WHEREAS, the Authority on its own behalf and on behalf of the City of Boston intends to require all developers carrying out construction projects in the downtown and Back Bay areas of Boston to establish similar plans to uniformly minimize construction related impact on traffic flow in the City of Boston.

NOW, THEREFORE, the parties do hereto mutually agree as follows:

1. Construction Impacts

NEL/GDHI agrees to establish a "Construction Mitigation Plan" (the "Plan") which will commence on the date of issuance of a demolition permit for the Western Component of the Project and which will extend for sixty (60) months or until the occupancy of the Eastern Component of the Project, whichever is first to occur; provided, however, that the Plan shall not

apply to non-construction related activity associated with the Western Component following completion thereof. Such Plan is subject to the approval of the Director, and shall provide as follows:

- Reasonable efforts will be made to minimize construction related truck movement between 7:30 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m., except during the demolition, excavation and concrete placement phases of construction. At no time will trucks be permitted to be staged in such a manner as to impede the flow of traffic in the Project site area. NEL/GDHI will submit to the Authority prior to the commencement of construction a construction traffic and staging plan incorporating these provisions and requiring notice to the contractor, subcontractors and suppliers concerning the delivery and traffic flow requirements contained herein.

- All construction deliveries, except those associated with excavation and concrete placement, will be to Clarendon Street, Berkeley Street or St. James Avenue to ensure that normal shopping activity along Boylston Street will not be affected in any material manner.

- Structural steel deliveries arriving by rail to the Allston yards will be transferred to trucks that will exclusively use the Massachusetts Turnpike for arrivals and departures.

- NEL/GDHI in cooperation with the Authority will attempt to locate satellite parking locations for use by construction workers during the construction of the Western Component from which a free shuttle bus service to transport workers to the Project site will be provided.

2. Traffic Parking Impacts

NEL/GDHI further agrees to establish a "Traffic and Parking Management Plan" (the "Traffic Plan") which will commence six months prior to occupancy of the Western Component and extend for fifteen (15) years following occupancy of the Western Component. The Traffic Plan shall provide the following measures to reduce demand for parking at the Project and in the adjacent areas:

- NEL/GDHI will operate a computer-based ride-sharing information bank for the Back Bay business community. With the cooperation of adjacent businesses and building owners, NEL/GDHI will collect and disseminate information, in cooperation with Masspool, from and to commuters seeking to establish carpool arrangements. In connection therewith, NEL/GDHI will place promotional material for such programs, including information concerning availability of car pool parking spaces, in

company publications regarding mass transit and carpooling.

- NEL/GDHI will participate in the MBTA Commuter pass program through its property management office which will make available for sale MBTA commuter passes for subway and surface bus services to its employees and to tenants of the Project.

- NEL/GDHI agrees to encourage tenants of the Project to establish plans for staggered work hours or a "flex-time" system to reduce peak hour traffic impacts. NEL/GDHI's property management office will assist tenants interested in establishing such plans.

- NEL/GDHI agrees to maintain and provide the necessary staff through its property management office, to deal with transit, traffic and parking matters relating to the Traffic Plan and for monitoring access to the Project's parking facility.

- The property management office will also distribute information and promote the management program for all of the tenants in the Project.

3. Performance Monitoring

- During construction, the Director or his designee may request periodic meetings with NEL/GDHI representatives to review compliance procedures. If the Director reasonably determines that NEL/GDHI is not in compliance with the Authority approved "Construction Monitoring Plan" with respect to a Component, the Authority shall require NEL/GDHI to take such actions as are reasonably necessary to achieve full compliance with respect to such Component within thirty (30) days of such directive.

- It is recognized that the Authority may keep a record of compliance with respect to each Component on file. This information may be considered in deciding whether to award future development parcels (unrelated to the Project) to NEL/GDHI.

- NEL/GDHI shall send a progress report annually to the Authority including information regarding traffic, transit and parking characteristics of employees and visitors to each Component.

4. Traffic Operation and Control

- NEL/GDHI agrees to participate in traffic studies and implementation of short-term improvements and selected measures to help traffic management in the Back Bay including improved signage and to expend up to $75,000 towards this effort.

- The Authority on its own behalf and on behalf of the City of Boston agrees to take necessary steps to further improve management of traffic control and parking in the Project site area and the Back Bay generally.

5. Joint Venture Liability

- The Authority agrees that NEL/GDHI and its successors in interest shall be liable for breaches of obligations under this Agreement with respect to a particular Component only while NEL/GDHI or any successor in interest, as the case may be, is owner of the Component in question. The Authority further agrees to look solely to the interest in the Component in question of NEL/GDHI or its successors, as the case may be, for any claim against NEL/GDHI or any successor arising out of this Agreement in connection with such Component. Neither NEL/GDHI nor any trustee, beneficiary, partner, manager, agent or employee of NEL/GDHI (or its successors and assigns) shall ever be personally or individually liable; nor shall it or they ever be answerable or liable in any equitable proceeding or order beyond the extent of its or their interest in the Component in question.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding as of the day and year first above written.

BOSTON REDEVELOPMENT AUTHORITY

_____

Stephen Coyle, Director

Approved as to Legal Form:

_____

General Counsel
Boston Redevelopment Authority

NEW ENGLAND MUTUAL LIFE INSURANCE COMPANY

By:_____

Name:
Title:

GERALD D. HINES, INTERESTS, INC.

By:_____

Name:
Title:

EXHIBIT E

Gerald D. Hines Interests 462 Boylston Street, Suite 302 Boston, Massachusetts 02116 Area Code 617 236-0096

December 11, 1985

Ms. Susan Allen
Boston Redevelopment Authority
Ninth Floor
Boston City Hall
Boston, MA 02201

RE: Approval of Western Component General Contractor

Dear Susan:

Pursuant to Section 101 Paragraph L of the Sales and Construction Agreement between the Joint Venture and the City of Boston, we are writing to obtain the approval of the Authority of our selection of our General Contractor for the Western Component.

We have selected a Joint Venture of Bond Brothers and Dugan and Meyers. Enclosed is some background literature on both firms. Bond Brothers is a local contractor based in Everett, Massachusetts and Dugan and Meyers is based in Cincinnati. The Hines Interests has a long and establisnec working relationshic with Dugan and Meyers. They have built such projects as the Hartford Steam and Boiler Building in Hartford, Central Trust Center in Cincinnati, The Huntington Bank Center in Columbus, and the Southeast Financial Center in Miami. These projects range in size from approximately 400,000 square feet of office space up to 1 million square feet. We have total confidence in this Joint Venture's capability to undertake the construction of the Western Component.

In order to comply with the terms of the Sales and Construction Agreement to provide us with the Authority's written approval we would ask that the Authority counter sign one copy of this letter and return it to us for our records. If you should have any questions or require additional information, please feel free to contact me.

Very truly yours,

Kenneth S. Moczulski

KSM:jba
KSM121050
attachments
cc: B. Fallon
M. Harrity
E. Ross

Approved this _____ day of December, 1985 by the Boston Redevelopment Authority

EXHIBIT F

Gerald D. Hines Interests 462 Boylston Street, Suite 302 Boston, Massachusetts 02116 Area Code 617 236-3036

December 19, 1985

Mr. Mitchell Fischman
Boston Redevelopment Authority
City Hall Plaza
Boston, Massachusetts 02108

RE: Western Component
500 Boylston Street
Boston Residents Construction Employment Plan

Dear Mitch:

Pursuant to your discussions with Brian Fallon of this date, we hereby agree to the following changes to the Bond Bros./Dugan & Meyers, Joint Venture letter of October 17, 1985:

1. Insert in the first line of the first paragraph after the word acknowledges, "that it is contractually bound to fulfill the requirements of"

2. Under the Subcontractors heading, paragraph no. 2, change the reference of monthly reports to weekly.

3. Under the Subcontractors heading, paragraph no. 3, insert in line two after the word subcontractor the following: "and the BRA Compliance Office".

4. Add the following sentence to the last paragraph: "We understand that the above outlined program is acceptable as a preliminary employment plan and commits to work with the BRA to complete a final plan in the near future".

We understand that with these changes the Boston Residents Construction Employment Plan for the Western Component is agreeable and acceptable to the BRA.

Very truly yours,

Kenneth S. Moczulski

Agreed and Acknowledged this
19th day of December, 1985

By:_____

OCT 18 1985

BOND BROS./

Bond Bros/Dugan & Meyers, A Joint Venture

October 17, 1985

Gerald D. Hines Interests
462 Boylston Street
Boston, Massachusetts 02116

Attn: Andrew Stallings

Gentlemen:

Bond Bros./Dugan & Meyers, Joint Venture, acknowledges the Mayors Executive Order extending the Boston Residents Job Policy Plan and commits to an effort, in good faith, to encourage compliance by Bond Bro./Dugan & Meyers, Joint Venture, our subcontractors and participating building trades. We intend to accomplish this by the following efforts:

Subcontractors

1. Include the Mayors Executive Order as part of our standard subcontract agreement.

2. Require each subcontractor to submit monthly reports identifying compliance on a trade basis. (See attached proposed format)

3. Follow up each non-complying report with correspondence to the subcontractor identifying areas of non-compliance and requiring response as to the action the subcontractor shall take to comply.

Building Trades

1. Advise all building trades, by letter, that the project is operating under the auspices of the Mayors Exexcutive Order and ask their cooperation in providing the designated quotes.

2. In the event the building trades are unable to comply, Bond Bros./Dugan & Meyers will seek compliance by attempting to hire through other sources, subject to the terms and conditions of labor agreements.

11110 Kenwood Road
Cincinnati, Ohio 45242-1863
(513) 891-4300

Andrew Stallings
Gerald D. Hines Interests

In addition to the above, we are informing the State Office of Minority Business Assistance and the Contractors Association of Boston Inc. of the subcontractor bid dates to encourage minority business enterprise participation. The latter shall receive plans and specifications in order to assist subcontractors in preparation of their bids.

We trust that the outlined program is acceptable and that our continued mutual efforts will lead to a successful project in terms of conformance with the Mayors Executive Order. If you have any comments or questions, please contact the undersigned.

Sincerely,

BOND BROS./DUGAN & MEYERS,
JOINT VENTURE

Anthony J. Cotter
Project Manager

BOSTON RESIDENTS CONSTRUCTION EMPLOYMENT PLAN

MONTHLY EMPLOYMENT UTILIZATION REPORT

NAME AND LOCATION OF CONTRACTOR:

REPORTING PERIOD
FROM: _____
TO: _____

PROJECT: FIVE HUNDRED BOYLSTON STREET
OWNER: NEW ENGLAND LIFE & GERALD D. HINES INTERESTS
CONTRACTOR: BOND BROS./DUGAN & MEYERS - A JOINT VENTURE

CURRENT GOALS

BOSTON RES.	50%
MINORITY	25%
FEMALE	10%

WORK HOURS OF EMPLOYMENT

CONSTRUCTION TRADE	CLASSIFICATIONS	TOTAL ALL EMPLOYEES BY TRADE	BOSTON RESIDENTS	MINORITIES	FEMALE	RESIDENT PERCENTAGE	MINORITY PERCENTAGE	FEMALE PERCENTAGE
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
	Journey Worker							
	APPRENTICE							
	TRAINEE							
	SUB-TOTAL							
TOTAL JOURNEY WORKERS								
TOTAL APPRENTICES								
TOTAL TRAINEES								
GRAND TOTAL								

COMPANY OFFICIAL'S SIGNATURE AND TITLE | TELEPHONE NUMBER (Include area code) | DATE SIGNED